



## Report to Council

---

**Report of:** Chief Executive

---

**Date:** 6 February 2013

---

**Subject:** Changes to the Constitution

---

**Author of Report:** Dave Ross – Democratic Services  
0114 273 5033

---

**Summary:**

This report provides details of proposed changes to the Constitution.

---

**Recommendations:**

That the Council (a) considers adopting the changes to the following Parts of the Constitution, as set out in the report and appendices:-

- (i) Part 2 - Articles 4, 7, 9, 11,12 and 16
- (ii) Part 3 - Responsibility for Functions
- (iii) Part 4 - Council Procedure Rules and Miscellaneous Matters
- (iv) Part 4 - Contracts Standing Orders
- (v) Part 4 - Access to Information Rules
- (vi) Part 4 - Executive Procedure Rules
- (vii) Part 5 - Officers' Code of Conduct
- (viii) Part 5 - Protocol for Member/Officer Relations
- (ix) Part 7 - Management Structure and Proper Officers; and

(b) notes that the changes relating to creating the statutory post of Director of Public Health and setting up a statutory Health and Well Being Board will take effect from 1 April 2013.

---

**Background Papers:**

None

---

**Category of Report:** OPEN

## Statutory and Council Policy Checklist

<b>Financial implications</b>
NO
<b>Legal implications</b>
YES
<b>Equality of Opportunity implications</b>
NO
<b>Tackling Health Inequalities implications</b>
N/A
<b>Human rights implications</b>
N/A
<b>Environmental and Sustainability implications</b>
N/A
<b>Economic impact</b>
N/A
<b>Community safety implications</b>
N/A
<b>Human resources implications</b>
N/A
<b>Property implications</b>
N/A
<b>Area(s) affected</b>
None
<b>Relevant Cabinet Portfolio Leader</b>
Cllr Julie Dore
<b>Relevant Scrutiny Committee if decision called in</b>
Not applicable
<b>Is the item a matter which is reserved for approval by the City Council?</b>
Yes
<b>Press release</b>
NO

**1. Introduction**

1.1 This report provides details of proposed changes to the Council's Constitution.

**2. Background**

2.1 To ensure that the Constitution is kept up to date, there is a regular review process and, where changes are required, these are submitted to Full Council for approval. Changes were last approved by Full Council in September 2012.

2.2 In addition, the Director of Legal Services, in consultation with the Lord Mayor, has delegated authority to make any minor and consequential drafting changes to the Constitution. There have been no changes made under delegated authority since 2011.

**3. Proposed Changes and Reasons**

3.1 Following the latest review, a number of changes are proposed to the Constitution and have been discussed with the Council's Corporate Members' Group.

**3.2 Procedural Motions (Council Procedure Rules)**

3.2.1 It is proposed to introduce a single process for dealing with procedural motions at meetings of the Council. The current Council Procedure Rules (CPR) are ambiguous or self contradictory in relation to these types of motions and, accordingly, the Corporate Members' Group has suggested one consistent process as follows:

- The mover speaks to his/her motion for a maximum of 30 seconds;
- The motion shall be formally seconded;
- A maximum of one speaker from each political group officially recognised by the Council, other than that of the mover's Group, shall be allowed to speak to the motion for a maximum of 30 seconds per speaker;
- The mover shall not have a right of reply;
- The Lord Mayor shall then put the motion to the vote.

3.2.2 The following CPRs are proposed to be amended to reflect this single process for dealing with procedural motions:-

- CPR 9 (Order of Council Business)
- CPR 11 (Motions which may be moved without notice at Council meetings)
- CPR 17.9 (Alteration of Motion or Amendment)
- CPR 17.10 (Withdrawal of Motion or Amendment)
- CPR 17.12 (Motions which may be moved during debate)
- CPR 17.13 (Closure Motions)

The proposed changes to these Procedure Rules are set out in Appendix A.

3.2.3 As regards the closure motions "to proceed to the next business" and "that the question now be put", the Corporate Members' Group wish to retain the current requirement that the Lord Mayor shall put the procedural motion to the vote if not less than five persons have spoken on the motion under debate, and at least one member of each of the political parties recognised by the Council as constituting an identifiable and separate Party Group, having previously indicated to him/her a wish to contribute to the debate, has been given the opportunity to do so.

3.3 Right of Reply (Council Procedure Rule 17.13 c)

3.3.1 The Corporate Members' Group has confirmed that "a right to reply, [for the mover of a motion] at the end of the debate on the motion, immediately before it is put to the vote", as set out in CPR 17.11 (a), is to be interpreted as the final contribution on the final amendment on motions with two or more amendments.

3.3.2 The closure motion "That the question be now put" (CPR 17.13 (c)) is required to be amended to make this Rule consistent with the above interpretation of when the Right of Reply should be exercised. Additional wording is to be introduced to the final sentence of the Rule so as to read as follows:-

"If it is passed **in circumstances where debate is on the motion or final amendment to a motion** he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote." The proposed change to the Procedure Rule is set out in Appendix A.

3.4 Point of Order and Personal Explanation (Council Procedure Rules 17.14 (b) and 17.15)

3.4.1 Arising from an issue at Full Council and discussion at the Corporate Members' Group, it is proposed that Council Procedure Rule 17.14 (b) (Point Of Order) is amended to allow the Lord Mayor to be asked for advice on the whole of business before Council and 17.15 (Personal Explanation) is amended to allow a member to raise a point of personal explanation at any time during Council. The proposed changes are set out at Appendix B.

3.5 Contracts Standing Orders (Part 4)

3.5.1 The majority of changes to the Contracts Standing Orders are to tidy up and correct drafting errors in the previous version. Some sections have been expanded to provide greater clarity on contracts that were always subject to standing orders (i.e. Part B Services and contracts let in relation to grants) or processes around approvals for procurement strategy and contract award. The only substantive change is in relation to signing of contracts. To comply with regulations, those contracts that must be in writing (and therefore must have two officers signing) are now stated as those over the values of £25,000 (Goods) and £50,000 (Works and Services) or if below those values where there has been a competitive process. It is expected that the practice will be to have all contracts in writing. The Director and Assistant Directors of Commercial Services have been added as contract signatories in those cases. The proposed changes are set out at Appendix C.

3.6 Responsibility for Functions (Article 7.06, Part 3 and Executive Procedure Rules)

- 3.6.1 A minor change is required to Article 7.06 to more accurately reflect the potential scope of the Leader's scheme of delegation and to make the process of implementing changes to the Leader's scheme of delegation more efficient and transparent. The proposed change is set out at Appendix D.
- 3.6.2 A number of amendments are required to the list of Local Choice Functions in Part 3.2 of the Constitution to reflect the abolition of Police Authorities and to bring the numbering of the table in line with the relevant statutory instrument. It is also necessary to correct an omission relating to local area agreements (notwithstanding that no such Agreement is currently in place) and to recommend that these functions are allocated to the Executive. A minor change is proposed to Part 3.5.4 to make the wording clearer and to bring it into line with the equivalent wording used in the Leader's scheme of delegation. The proposed changes are set out at Appendix E.
- 3.6.3 A number of minor changes are required to the Executive Procedure Rules. It is proposed to amend Procedure Rule 1.1 to more accurately reflect that the Leader's scheme of delegation is separate from the Constitution and the potential scope of the Leader's scheme of delegation. The amendment to Procedure Rule 1.2 is to correct some minor anomalies and the change to Rule 1.3 is to reflect a complex legal situation more accurately and succinctly. The proposed changes are set out at Appendix F.
- 3.7 Policy Framework (Article 4.01 and Part 3.3.3)
- 3.7.1 A change is required to remove plans that are no longer legally required to be approved by Full Council from Article 4.01 that relates to Full Council and Part 3.3.3 that relates to functions which may not be exercised solely by the Executive. The proposed changes are set out at Appendices G and H.
- 3.8 Appointment of the Leader (Article 7.02 and Council Procedure Rules 5.2 g and 24.1)
- 3.8.1 A change is required to Article 7.02 and Council Procedure Rules 5.2 (g) and 24.1 to reflect that the Localism Act 2011 now requires that the Leader is appointed annually. It is also necessary to reflect in Articles 7.02 and 7.03 that the sanction of suspension is no longer available as the previous Standards regime was abolished by the Localism Act 2011. The proposed changes are set out at Appendices I and J.
- 3.9 Access to Information Rules (Part 4)
- 3.9.1 A number of changes are required to the Access to Information Procedure Rules to reflect the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, arising from the Localism Act 2011. These relate to the publishing of the Forward Plan and Executive decisions.
- 3.9.2 It is necessary to delete paragraphs 7a, 7b and 7c of the categories of exempt information as they relate to the previous Standards regime and have been repealed. There is also a proposed minor clarification relating to key decisions, urgency and call-in with the addition of an additional paragraph in Rule 15.

- 3.9.3 The proposed changes are set out at Appendix K.
- 3.10 Deputy Chief Executive (Article 16, Council Procedure Rules – Miscellaneous Matters, Officers’ Code of Conduct and Protocol for Member/Officer Relations)
- 3.10.1 There are a number of references to ‘Deputy Chief Executive’ in the Constitution and it is proposed that these are deleted and, where these relate to the role of Monitoring Officer, are replaced by the ‘Director of Legal Services’. The proposed changes are set out at Appendix L.
- 3.11 Revised Whistleblowing Policy (Officers’ Code of Conduct - Part 5)
- 3.11.1 The Whistleblowing Policy (Appendix C to the Officers’ Code of Conduct) has been revised to incorporate a number of improvements and is attached at Appendix M.
- 3.12 Public Health (Articles 9 and 12 and Part 7 – Management Structure and Proper Officers)
- 3.12.1 The Council takes over responsibility for Public Health on 1st April 2013. This will include creating the statutory post of Director of Public Health and setting up a statutory Health and Well Being Board. A number of changes to the Constitution are required from 1st April relating to Articles 9 and 12.01 and Part 7 – Management Structure and Proper Officers. The proposed changes are set out at Appendix N.
- 3.13 Annual Council (Council Procedure Rule 5.2)
- 3.13.1 A minor change is required to Council Procedure Rule 5.2 (m) to reflect that there is no longer a legal requirement for Annual Council to appoint a Standards Committee. The proposed change is set out at Appendix O.
- 3.14 Joint Arrangements (Article 11)
- 3.14.1 Minor changes are required to Article 11 to reflect the replacement of the well-being powers in section 2, Local Government Act 2000 by the general power of competence in section 1, Localism Act 2011 and the introduction of Police and Crime Panels. The proposed changes are set out at Appendix P.
- 3.15 Miscellaneous Matters (Council Procedure Rules)
- 3.15.1 A minor change is required to Miscellaneous Matters B6 (part of the Council Procedure Rules) to bring the arrangements for dealing with Appeals against Dismissal or Disciplinary Action in line with existing established processes. The proposed change is set out at Appendix Q.
4. **Legal Implications**
- 4.1 Except where delegated by Council (see paragraph 2.2 above), variations to the Constitution may only be made by Full Council.

5. **Financial Implications**

5.1 There are no financial implications.

6. **Recommendations**

6.1 That the Council (a) considers adopting the changes to the following Parts of the Constitution, as set out in the report and appendices:-

- (a) Part 2 - Articles 4, 7, 9,11,12 and 16
- (b) Part 3 - Responsibility for Functions
- (c) Part 4 - Council Procedure Rules and Miscellaneous Matters
- (d) Part 4 - Contracts Standing Orders
- (e) Part 4 - Access to Information Rules
- (f) Part 4 - Executive Procedure Rules
- (g) Part 5 - Officers' Code of Conduct
- (h) Part 5 - Protocol for Member/Officer Relations
- (i) Part 7 - Management Structure and Proper Officers; and

(b) notes that the changes relating to creating the statutory post of Director of Public Health and setting up a statutory Health and Well Being Board will take effect from 1 April 2013.

**Chief Executive**

## EXTRACTS FROM COUNCIL PROCEDURE RULES

## 9 Order of Council Business

9.1 The business of the Council shall be taken in the order in which it appears in the Council Summons.. However, the Council may, by a resolution passed on a motion duly moved and seconded, ~~and without debate~~ direct the order of precedence to be changed, in circumstances where the subject of a motion proves to generate public interest reflected by a significantly increased attendance by members of the public at a Council meeting and it is therefore deemed appropriate to take the motion in question as an earlier item of business. The motion to change the order of business shall be dealt with in accordance with the process set out in Council Procedure Rule 11(b).

**Comment [SCC1]:** Reflects process agreed by the Corporate Member Group

9.2 The Council shall, where appropriate, consider any item referred from the Cabinet or Scrutiny and Policy Development Committee and shall take such action on the issues as may be deemed appropriate.

## 11 Motions which may be moved without notice at Council Meetings

(a) Subject, where appropriate, to the provisions of Council Procedure Rule 17.12, the following motions may be moved without notice:-

(i) Appointment of Chair at a meeting from which the Lord Mayor and Deputy Lord Mayor are absent.

(ii) Motions and Amendments where it is not reasonably possible to comply with Council Procedure Rules 10.1 and 12.1.

~~(iii) To proceed to the next business, subject to the provisions of Council Procedure Rule 17.13.~~

**Comment [SCC2]:** Relocated with other "closure motions"

~~(iv) That the question be now put, subject to the provisions of Council Procedure Rule 17.13.~~

(iv) That the meeting or debate be adjourned, subject to the provisions of Council Procedure Rule 17.13. ~~Council does now adjourn.~~

**Comment [SCC3]:** Accords with 17.12(v)

(vi) Suspending all or any particular Council Procedure Rule and Financial Regulations, subject to the provisions of Council Procedure Rule 4.



(vii) ~~(vi)~~—That a member be no longer heard and/or be excluded from the meeting, subject to the provisions of Council Procedure Rule 19.

~~(viii)~~ ~~(vii)~~—To vary the order of business, subject to the provisions of Council Procedure Rule 9.1.

~~(ix)~~ ~~To alter a motion or amendment, subject to the provisions of Council Procedure Rule 17.9.~~

**Comment [SCC4]:** Accords with 17.12(ii) and 17.9

~~(xviii)~~ To withdraw a motion or amendment, subject to the provisions of Council Procedure Rule 17.10.

~~(ixi)~~ Motions referred to in Council Procedure Rule 13.1 (a) and (b).

(xii) To exclude the public and press pursuant to existing legislation relating to access to information, as amended from time to time., subject to the provisions of Council Procedure Rule 28.

(xiii) In relation to the accuracy of the minutes.

~~(xiv#)~~ To refer something to an appropriate body or individual.

~~(xviii)~~ To appoint a Committee or member arising from an item on the Summons for the meeting.

~~(xiv)~~ ~~To proceed to the next business.~~

(xvi) To give the consent of the Council where it is required by the Constitution.

(b) ~~After the mover has spoken to his/her motion for a maximum of 30 seconds, it shall be formally seconded. A maximum of one speaker from each political group officially recognised by the Council, other than that of the mover's Group, shall be allowed to speak to the motion for a maximum of 30 seconds per speaker. The mover shall not have a right of reply. The Lord Mayor will then put the motion to the vote.~~

**Comment [SCC5]:** Reflects process agreed by the Corporate Member Group

---

## 17.9 Alteration of motion or amendment

- (a) A member may alter a motion or amendment of which he/she has given notice with the consent of the meeting. ~~The meeting's consent will be signified without discussion.~~

- (b) A member may alter a motion or amendment which he/she has moved without notice with the consent of both the meeting and the seconder. ~~The meeting's consent will be signified without discussion.~~

- (c) The motion to alter a motion or amendment shall be dealt with in accordance with the process set out in Council Procedure Rule 17.12(b).

**Comment [SCC6]:** Reflects process agreed by the Corporate Member Group

#### 17.10 Withdrawal of motion or amendment

- (a) A member may withdraw a motion or amendment which he/she has moved, or given notice of, with the consent of both the meeting and the seconder. ~~The meeting's consent will be signified without discussion.~~ No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

- (b) The motion to withdraw a motion or amendment shall be dealt with in accordance with the process set out in Council Procedure Rule 17.12(b).

**Comment [SCC7]:** Reflects the process agreed by the Corporate Member Group

#### 17.11 Right to reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (c) Subject to the provisions of Council Procedure Rule 17.13, a Member who has formally seconded a motion or amendment and who has been permitted to reserve his/her speech until a later period in the debate will not be deemed a speaker for the purposes of counting five persons, but will lose his/her right to speak if he/she has not spoken prior to the passing of a motion that the question be now put.

#### 17.12 Motions which may be moved during debate

- (a) When a motion or amendment is under debate, no other motion may be moved except the following procedural motions:-
- (i) to withdraw a motion or amendment;
  - (ii) to alter a motion or amendment;
  - (iii) to proceed to the next business, subject to the provisions of Council Procedure Rule 17.13;

- (iv) that the question be now put, subject to the provisions of Council Procedure Rule 17.13;
- (v) to adjourn a debate or the meeting, subject to the provisions of Council Procedure Rule 17.13;
- (vi) to suspend a particular Council Procedure Rule, subject to the provisions of Council Procedure Rule 4;
- (vii) to exclude the public and press in accordance with existing legislation relating to access to information, as amended from time to time;
- (viii) to not hear further a Member or to exclude him/her from the meeting, subject to the provisions of Council Procedure Rule 19.

- (b) After the mover has spoken to his/her motion for a maximum of 30 seconds, it shall be formally seconded. A maximum of one speaker from each political group officially recognised by the Council, other than that of the mover's Group, shall be allowed to speak to the motion for a maximum of 30 seconds per speaker. The mover shall not have a right of reply. The Lord Mayor will then put the procedural motion to the vote.

**Comment [SCC8]:** Reflects the process agreed by the Corporate Member Group

### 17.13 Closure motions

- (a) A member may move, ~~without comment~~, the following motions at the end of a speech of another member:-
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is moved, seconded and spoken upon and, if not less than five persons have spoken on the motion under debate, and at least one member of each of the political parties recognised by the Council as constituting an identifiable and separate Party Group, having previously indicated to him/her a wish to contribute to the debate, has been given the opportunity so to do, the Lord Mayor will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is moved, seconded and spoken upon and, if not less than five persons have spoken on the motion under debate, and at least one member of each of the political parties recognised by the Council as constituting an identifiable and separate Party Group, having previously indicated to

him/her a wish to contribute to the debate, has been given the opportunity so to do, the Lord Mayor will put the procedural motion to the vote. If it is passed in circumstances where debate is on the motion or final amendment to a motion, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

**Comment [SCC9]:** Addition agreed by the Corporate Member Group to clarify that the Right of Reply is to be the final contribution on a motion under debate.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Lord Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. If a majority of Members vote in favour of the motion, the remaining business of the day shall stand adjourned to a time fixed by the Lord Mayor at the time the meeting is adjourned, or, if he/she does not fix a time, to the next ordinary meeting of the Council.

**Comment [SCC10]:** Paragraphs (b) and (c) - The Corporate Member Group wished to retain the provisions relating to minimum number of speakers and political party contributions in relation to "closure motions".

**EXTRACT FROM COUNCIL PROCEDURE RULES****17.14 Point of Order**

- (a) A Member may raise a point of order at any time. The Lord Mayor will hear the Member immediately. A point of order may only relate to an alleged breach of these Council rules of procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Lord Mayor on the matter will be final.
- (b) A Member may call upon the Lord Mayor to advise the meeting as to whether an issue has arisen ~~in the motions presented to the meeting, or in the resulting debate,~~ of factual inaccuracy ~~or significant ambiguity~~; or defamation or discrimination. The Lord Mayor, advised by the Chief Executive, will advise the meeting as to what action should be taken if such an issue has arisen.

**17.15 Personal Explanation**

A Member may, at any time, request to address the meeting to provide a personal explanation where he/she has made a mis-statement that is being quoted by a later speaker, or where another Member has misquoted or misunderstood what the Member had said, ~~during the present debate~~. The Lord Mayor will decide whether or not to permit the request, and the Lord Mayor's ruling shall not be challenged. The Member shall confine his/her personal explanation to correcting the misunderstanding.

## **STANDING ORDERS OF THE COUNCIL**

### **(C) CONTRACTS**

#### **C.1 DEFINITIONS AND INTERPRETATION**

#### **C.2 GENERAL**

- C.2.1 Compliance with Standing Orders
- C.2.2 Exemptions
- C.2.3 Contraventions
- C.2.4 Legal Requirements
- C.2.5 Contract Value
- C.2.6 Conflicts of Interest
- C.2.7 Nomination
- C.2.8 Transfer of Employees

#### **C.3 COMMISSIONING**

- C.3.1 General
- C.3.2 Commissioning responsibilities of the Client

#### **C.4 PROCUREMENT STRATEGY**

- C.4.1 General
- C.4.2 Contract Value less than £25,000
- C.4.3 Contract Value £25,000 or more for Goods
- C.4.4 Contract Value £50,000 or more for Works or Services

#### **C.5 TENDERS**

- C.5.1 Requirements
- C.5.2 Health and Safety

#### **C.6 CONTRACT AWARD**

- C.6.1 Authority to award Contracts
- C.6.2 Selecting the Successful Contractor

#### **C.7 CONTRACTS**

- C.7.1 Forms of Contract
- C.7.2 Contracts – Signed or by Deed
- C.7.3 Contracts – By Deed
- C.7.4 Contracts – Signed
- C.7.5 Contracts Register
- C.7.6 Contract Management
- C.7.7 Payment in Advance

---

**ORDER C.1 - DEFINITIONS AND INTERPRETATION**

C.1.1 In these Contracts Standing Orders the following words shall have the meanings given to them below:

<b>“CHAS or SSIP”</b>	Health and Safety pre-qualification schemes: <del>CHAS – <a href="http://www.chas.gov.uk">www.chas.gov.uk</a></del> <del>SSIP – <a href="http://www.ssip.org.uk">www.ssip.org.uk</a></del>  <u>CHAS – <a href="http://www.chas.gov.uk">www.chas.gov.uk</a></u> <u>SSIP – <a href="http://www.ssip.org.uk">www.ssip.org.uk</a></u>
<b>“Client”</b>	The person responsible for the Commissioning and delivery of goods, <u>works</u> or services on behalf of their Service, who is working directly with the Procurement Professional; the ‘Client’ of the Procurement Professional who is responsible for the tendering process.
<b>“Commissioning”</b>	A continuous process through which Commissioners identify need; plan, source, deliver and performance manage activity. See ‘The Commissioning Process’ document, available from Commercial Services, for more information.
<b>“Contract”</b>	<del>Except where the context requires a different meaning, a</del> contract for the purchase or hire by the Council of <u>work, goods, works or services</u> <del>or supplies.</del>
<b>“Contract Lead”</b>	The person who has overall administrative control of the Contract.
<b>“Contractor”</b>	Includes a tenderer or any other person or organisation delivering a Contract.
<b>“Contract Value”</b>	The estimated total of the money payments to be made by the Council and the value of materials or other benefits to be retrieved or enjoyed by the Contractor for the whole period of the Contract, including any potential extensions; it is exclusive of VAT.
<b>“<u>Corporate Council</u> Contract”</b>	A Contract competitively let by <u>Corporate Procurement Commercial Services</u> , on behalf of

---

	the Authority, where there is a routine or commonly recurring requirement across the Council.
<b>“Council Seal”</b>	The emblem used as a means of authentication by the Council and which is in the form of an impression in paper, wax or other medium.
<b>“Criteria”</b>	Means the information provided to enable the evaluation of tenders received.
<b>“European Union Procurement Directives”</b>	DIRECTIVE 2004/18/EC, as amended & DIRECTIVE 2004/17/EC, as amended.
<b>“External Body”</b>	As defined under the circumstances at C.1.1.3; this specifically excludes external organisations that are contracted to supply goods, <u>works</u> or services to or on behalf of the Council, unless compliance with the competitive requirements of these Orders is a term of the Contract.
<b>“High Risk Work”</b>	Work that involves or includes demolition; the removal or treatment of asbestos; confined spaces or work at height (such as the erection, alteration or dismantling of scaffolding, work on roofs and steeples, abseiling or window cleaning).
<b>“In-House Provider”</b>	A Council department which <u>provides can provide goods and, works or services to other Council departments as if they were an external supplier. The goods and services provided have been deemed to provide value whether charged for money for internal Clients or not. It does not include any separate legal entity..</u>
<b>“Orders”</b>	These Standing Orders for Contracts.
<b>“Tender Process Manual”</b>	The processes, procedures and templates issued by Commercial Services which must be adhered to by Procurement Professionals.



---

<b>“Procurement Professional”</b>	A Council officer who is either 1) a qualified procurement professional or 2) a procurement professional by way of their Council role as a buyer of goods, <del>works or services, or works.</del> Commercial Services will hold a list of Procurement <del>Specialists.</del> <u>Professionals.</u>
<b>“Public Procurement Regulations” or “Regulations”</b>	The Public Contracts Regulations 2006, as amended & The Utilities Contracts Regulations 2006, as amended.
<b>“Senior Responsible Officer” or “SRO”</b>	The Head of Service, or other <del>delegated</del> Officer nominated in writing by the Head of Service- <u>to act in their place.</u>
<b>“RIDDDOR”</b>	The Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 1995.
<b>“School Contract”</b>	A Contract let by the governing body of a school acting in the exercise of its powers in respect of a delegated budget.

C.1.2 A reference in these Orders to any Act of Parliament shall include a reference to any statute for the time being in force replacing or re-enacting that Act.

---

**ORDER C.2 - GENERAL**

**C.2.1 Compliance with Standing Orders**

C.2.1.1 All Contracts shall comply with these Orders unless:

C.2.1.1.1 an exemption applies (see Order C.2.2); or

C.2.1.1.2 the contract: is a School Contract;

- ~~is a School Contract;~~
- ~~relates to a grant administered by the Council for a particular purpose, where it has been agreed with the Director of Commercial Services that competition is not appropriate; or~~
- ~~relates to funding received by the Council, which the Council administers on the funding body's behalf, where the funding body has attached grant conditions which make compliance with these Orders unachievable, and where this has been agreed by the Director of Commercial Services.~~

C.2.1.2 Officers must comply with Contracts Standing Orders.

C.2.1.3 Each Senior Responsible Officer (SRO – see Order C.1.1) shall ensure that Contracts let by his or her Service comply with these Orders.

C.2.1.4 External Bodies

External Bodies (see Order C.1.1) shall also be required to comply with these Orders (or alternatively, any other written procurement rules adopted by that body which have been approved by the Director of Commercial Services) whenever the External Body undertakes a procurement of goods, works or services in any of the following circumstances:

- Where the External Body is undertaking the procurement on behalf of the Council, specifically acting as its procurement agent; or
- Where the procurement is being undertaken by the External Body on its own behalf, or for some third party, but is being funded by financial assistance from the Council and it is a condition of that assistance that these Orders shall apply; or
- Where the Council is the “accountable body” for the External Body; or

- Where the External Body is a company under the control of the City Council within the meaning of *section 68 Local Government and Housing Act 1989*.

C.2.1.5 Where the External Body is another local authority undertaking the procurement as the 'commissioning authority' on behalf of the Council and any other parties, the financial regulations and procurement rules of that other local authority may be relied upon. However, the SRO for the Service to which the Contract relates shall ensure that the procurement is carried out in accordance with applicable EU Procurement Rules and Regulations and obtain confirmation of this in writing from the commissioning authority.

#### C.2.1.6 Part B Services

Under the European Public Procurement Directives and the Regulations Part B Services are exempt from the detailed procurement procedures. However they are subject to general EU Treaty law on procurement and the statutory duty to provide Best Value. Best practice is that this is best proven by utilising proper competitive procurement procedures. Therefore it has been determined that these Orders apply in full to Part B Services.

#### C2.1.7 Grant Funding

Where a the Council receives a grant to fund the provision of works or services where there is more than one potential supplier of the works or services, or where the grant is for the purpose of stimulating a new service and an assessment reveals there are existing suppliers who could develop the new service then these Orders apply in full to the procurement of the works or service.

Where there are no existing suppliers with the required competence then a waiver of these Orders should be sought to allow a grant to be used to stimulate the development with an agreed partner. Any waiver granted will be time limited so that when the new service is operational other new entrant suppliers have the opportunity to bid for the service provision.

Where funding received by the Council, which the Council administers on the funding body's behalf and the funding body has attached grant conditions which make compliance with these Orders unachievable, and this has been agreed by the Director of Commercial Services, then to the extent necessary to comply with the grant conditions these Orders do not apply.

#### C.2.2 Exemptions

C.2.2.2 ~~The~~For the avoidance of doubt, the following types of expenditure are exempt from the competitive requirements set out in these Orders, and a Waiver of Standing Orders (See Order C.2.2.3) is not required (If in doubt, seek advice from Commercial Services):

C.2.2.2.1 Offers of employment which make an individual an employee of the Council.

C.2.2.2.2 When dealing with:

- Acquisition, disposal or transfer of interests in or rights over land/property (which do not form part of a wider transaction where the Council procures works, goods or services);
- Disposal of surplus goods;
- Items purchased or sold by public auction (in accordance with arrangements agreed by the ~~Strategic~~Executive Director of Resources);
- Compensation Payments e.g. relating to Compulsory Purchase Orders and Insurance;
- Customer refunds e.g. Planning Refunds, Rent Refunds etc.

C.2.2.2.3 For certain Contracts with statutory undertakers, where the Council is obliged by statute or any other legal provision to use only the statutory undertaker (e.g. works orders only with utility infrastructure providers – Gas Mains, for example). Officers should seek to negotiate such terms and conditions that are in the best interests of the Council.\*\*

C.2.2.2.4 For expenditure with sole source organisations, such as Central Government bodies; these are statutory services where no genuine alternative exists. \*\*

\*\*Lists of exempted suppliers relating to Orders C.2.2.2.3 and C.2.2.2.4 are held by Commercial Services; for further information see <http://intranet/managers/procurement-projects/policy/contracting-rules--procedures>.

C.2.2.2.5 For expenditure with In-House Providers (see Order C.1.1)

Where the Council has an In-House Provider, that is capable of meeting a requirement, they must be used without competition, except where the Council has

determined that Supplies or Services of a particular kind will be subject to a competitive process. Where it is deemed that an In-House Provider ~~will~~ might not provide value for money, the Director of Commercial Services ~~may permit~~ will advise on any benchmarking process that should take place and whether there ought to be a competitive process ~~whereby~~. Any involvement of the In-House Provider is invited to submit a quote/tender alongside external providers. In such cases, in that process will be by the Director of Commercial Services ~~shall manage the process, and all considerations~~ TUPE, for example ~~must be adequately taken into account~~. A list of In-House Providers ~~will~~ that have been assessed as providing value for money for internal Clients may be held by Commercial Services.

C.2.2.2.6 For expenditure with ~~Corporate Council~~ Contracts (see Order C.1.1)

Where the Council has a ~~Corporate Council~~ Contract, that is capable of meeting a requirement, they must be used without competition, except where the Council has determined that Supplies or Services of a particular kind will be subject to a competitive process. A list of Corporate Contracts will be held by Commercial Services.

All queries in relation to the above exemptions should be directed to Commercial Services; in cases of dispute, the Director of Commercial Services' decision will be final.

C.2.2.3 The Director of Commercial Services may also grant an exemption from a requirement or number of requirements of these Orders in special circumstances by way of a Waiver of Contracts Standing Orders. The decision shall include the reasons for the exemption. Guidance on Waivers of Standing Orders, available from Commercial Services, must be adhered to for any such request.

### C.2.3 **Contraventions**

Officers have a duty to report unauthorised breaches to the Director of Commercial Services.

### C.2.4 **Legal requirements**

Every Contract shall be let in accordance with legal requirements, including the Public Procurement Regulations and EU Treaty law. Those requirements shall prevail in the case of any conflict with these Orders.

#### C.2.5 **Contract Value (see Order C.1.1)**

The Contract Value must not be underestimated, and the Contracts must not be subdivided in order to avoid the application of ~~any public procurement rules and regulations, of which~~ the EU Directives, the Regulations or these Orders ~~from a part~~.

#### C.2.6 **Conflicts of Interest**

In keeping with the Council's Financial Regulations, Officers and Members must formally declare any relationships with existing or potential Council Contractors prior to the obtaining of quotations or the awarding of Contracts, in accordance with relevant Codes of Conduct.

#### C.2.7 **Nomination**

The Council will not nominate sub-contractors or suppliers to its Contractors. However, Contractors will be actively encouraged to utilise local suppliers or sub-contractors and to recruit locally, whilst complying with relevant legislation.

#### C.2.8 **Transfer of Employees**

Where a Contract will result in the transfer of employees, the relevant policies and procedures of the Council should be complied with at all times.

---

## **ORDER C.3 - COMMISSIONING**

### **C.3.1 General**

In all cases, the Council's approved approach to Commissioning should be followed. This is available from Commercial Services.

### **C.3.2 Commissioning responsibilities of the Client (see Order C.1.1)**

C.3.2.1 Before starting the process of letting a Contract, the Client will need to consider a range of issues in order to ensure that the right approach is adopted. The responsibilities of the Client include:

C.3.2.1.1 Defining what the requirement is – including desired quality standards and outcomes – and how much it is likely to cost;

C.3.2.1.2 Ensuring appropriate budgetary and other approval (including approval of the procurement strategy in accordance with the Leader's scheme of delegations) has been granted;

C.3.2.1.3 Ensuring needs analysis for the requirement has been carried out adequately with stakeholders and end users;

C.3.2.1.4 Ensuring sustainability ~~including Equality and Diversity~~ considerations are adequately considered;

C.3.2.1.5 Ensuring appropriate consideration has been given to potential Human Resources, Legal and any other implications;

C.3.2.1.6 Ensuring requirements align with the Council's objectives and priorities, as defined in the Corporate Plan and adopted policies;

~~C.3.2.1.7~~ C.3.2.1.7 Ensuring compliance with any statutory and other duties in the commissioning process are complied with e.g. Equalities Act 2010, Best Value duty, Public Services (Social Value) Act 2012 duties, public law consultation duties, requirements of Compact with voluntary sector etc.

C.3.2.1.8 Ensuring a Procurement Professional (see Order C.1.1) is engaged at an early stage of the Commissioning process, and undertakes any resulting tendering exercise. Commercial Services holds a list of Procurement Specialists.

For further information, please contact Commercial Services.



---

## **ORDER C.4 - PROCUREMENT STRATEGY**

### **C.4.1 General**

C.4.1.1 The procurement strategy used on all tendering for every Contract with a Contract Value over £25,000 (Goods) ~~and/or~~ over £50,000 (Works or Services) ~~every Contract must or where subject to a tender by virtue of order 4.2.4 i~~ must be consistent with this Order and any relevant legislation and this must be confirmed by the Director of Commercial Services (or another duly ~~delegated~~ authorised officer). Where appropriate, the financial, human resources, legal and equalities implications must be agreed with the relevant department before the procurement strategy is presented to the Director of Commercial Services. Where it is known that for ~~spenda~~ Contract with a Contract Value under ~~the~~ these financial ~~threshold~~ thresholds a tendering exercise would ~~be~~ produce the best outcome for the Council, the SRO should contact Commercial Services, where a Procurement Professional will be allocated to undertake the procurement exercise.

C.4.1.2 For Capital Expenditure Projects the SRO must also obtain approval from the Capital Programme Group (CPG). Confirmation that the procurement strategy is consistent with this Order and any relevant legislation, as required by C.4.1.1, may be obtained at the CPG.

C.4.1.3 The procurement strategy for every Contract must also be approved in accordance with the Constitution and the Leader's Scheme of Delegations by ~~Council, the~~ Cabinet, a Cabinet Member, a Committee or an Officer. For the avoidance of doubt, this is in addition to the confirmation of the Director of Commercial Services under order C.4.1.1

C.4.1.4 Where it is decided that a competitive tender process will be undertaken (see Order C.5), a Procurement Professional (see Order C.1.1) must run the tendering process, in conjunction with the Client, in adherence with the Tender Process Manual and associated instructions and with reference to the Procurement Policy issued by Commercial Services.

### **C.4.2 Contract Value less than £25,000 (Goods) or less than £50,000 (Works or Services)**

C.4.2.1 The SRO is responsible for ensuring a clear audit trail is maintained for the necessary period for all decisions made.

C.4.2.2 Reasonable steps shall be taken to ensure value for money for the Council which, as a minimum, shall include:

- 
- C.4.2.2.1 First considering use of the Council In-House Provider or existing Council Contracts ~~or partnering arrangements~~ (see Orders C.2.2.2.5 and C.2.2.2.6).
- C.4.2.2.2 Where no applicable in-house provision or Council Contract ~~or partnering arrangement~~ exists:-
- Value £0 - £250: obtain at least 1 verbal quote and record the details
  - Value £250 - £2,500: obtain at least three competitive quotations, verbal or written, and record the details
  - Value £2,500 - £25,000; (Goods) or £50,000 (Works or Services): Invite 3, or more, written quotations and record the details
- C.4.2.4 Irrespective of the value, if your proposed purchase would provide better value through a more competitive process – for example there is a supply market for the product or service required - or is complex or difficult to describe – for example, the appointment of consultants or the buying of a bespoke service – you should seek tenders rather than quotes (see Order C.5).
- C.4.3 Contract Value £25,000 or more for Goods**
- C.4.3.1 For Contracts of Goods with a value in excess of £25,000, a formal tender process must take place. The Council must treat the tender process with probity and act in an open and transparent way throughout. For further details, refer to Orders C.1.4 and C.2.1.
- C.4.3.2 A Procurement Professional must determine the appropriate choice of tender procedure to follow, as detailed in the Tender Process Manual or required by law.
- C.4.3.3 Each Contract to be let shall be given appropriate publicity to bring it to the attention of suitable providers.
- C.4.3.4 Some Contracts will be subject to the rules set down in the European Union Procurement Directives and Regulations. These rules will apply to Contracts for supplies, services and works above certain thresholds; the level of each threshold is subject to review. Only certain services are fully covered by the Regulations. The Procurement Professional undertaking the tender exercise will be responsible for compliance with the Regulations, where applicable, including checking the threshold levels. Appropriate time must be allocated to enable the required EU procurement processes to take place.
-

**C.4.4 Contract Value £50,000 or more for Works or Services**

- C.4.4.1 For Contracts of Services~~works or services~~ with a value in excess of £50,000, a formal tender process must take place. The Council must treat the tender process with probity and act in an open and transparent way throughout. For further details, refer to Orders C.1.4 and C.2.1.
- C.4.4.2 A Procurement Professional must determine the appropriate choice of tender procedure to follow, as detailed in the Tender Process Manual or required by law.
- C.4.4.3 Each Contract to be let shall be given appropriate publicity to bring it to the attention of suitable providers.
- C.4.4.4 Some Contracts will be subject to the rules set down in the European Union Procurement Directives- and Regulations. These rules will apply to Contracts for supplies, services and works above certain thresholds; the level of each threshold is subject to review. Only certain services are fully covered by the Regulations. The Procurement Professional undertaking the tender exercise will be responsible for compliance with the Regulations, where applicable, including checking the threshold levels. Appropriate time must be allocated to enable the required EU procurement processes to take place.

## **ORDER C.5 - TENDERS**

### **C.5.1 Requirements**

C.5.1.1 SROs should ensure that, where quotations or tenders for under £25,000 (Goods) and £50,000 (~~Works or~~ Services) are opened within their Service, a procedure similar to that set out in this Order is adopted for recording the method used and the outcome for audit purposes.

C.5.1.2 No person or economic operator shall be included in or excluded from:

- any list of tenderers or persons with whom the Council may negotiate;
- any standing list; or
- the Approved List;

unless authorised in accordance with the Constitution and the Leader's Scheme of Delegations by the Council, Cabinet, a Cabinet Member, a Committee or an Officer.

### **C.5.1.3 Bankruptcy and Liquidation**

No tender shall be invited from, and no Contract entered into with, any person or economic operator who:-

- C.5.1.3.1 is bankrupt or in liquidation;
- C.5.1.3.2 has any receiver or administrative receiver appointed to it;
- C.5.1.3.3 has any winding up order made or (except for the purpose of amalgamation or reconstruction) a resolution of voluntary winding up passed in respect of it.

### **C.5.1.4 Electronic Tendering**

All tenders must be undertaken electronically, using the Council's electronic-tendering system; ~~tender submissions should only be received from bidders in hard copy where a bidder has expressly requested such a provision. (YORtender).~~ Any exemptions from this must be authorised by the Assistant Commercial Director ~~(managing the Commercial Process Team).~~ In any tender process all bids must be submitted by the same means.

#### C.5.1.5 Tender Submission

Tenders need to be in by a specified date and time and this should be clearly set out in the tender documents that go out to tenderers. Generally, late tenders (i.e. ones received after the time and date set for their return) will not be considered. However, exceptionally there is scope for flexibility with these and they may be accepted after considering their position if it is clear beyond dispute that it was despatched in good time and the delay is outside of the control of the tenderer. If in doubt about whether to accept a late tender consult the Director of Commercial Services who will liaise with the Director of Legal Services where appropriate. Late tenders not considered shall not be opened until after all other tenders have been opened and shall then be returned to the tenderer.

#### C.5.1.6 Hard Copy Tendering

C.5.1.6.1 Where hard-copy submission is permitted tenders must be submitted in a plain envelope, without any marks identifying the bidding organisation, but must be clearly identifiable as a tender.

C.5.1.6.2 Tenders must be addressed and delivered to a designated office. All tenders received will be marked with the date and time of receipt and listed in a register and held in safe custody until the time of opening as set down in the tender documents.

#### C.5.1.7 Tender Opening

Where Tenders are received under the provisions of these Orders, the following shall apply:

##### C.5.1.7.1 Electronic Tender Opening

Tenders received electronically shall be 'opened' within the electronic tendering system by ~~delegated~~authorised officers within the Commercial Process Team. These officers shall not have any conflicts of interest with the tender process and shall be appointed by the Assistant Commercial Director (managing the Commercial Process Team). ~~Tenders submitted electronically must be opened by the same officers and at the same time as hard copy tenders received, if applicable.~~

#### C.5.1.7.2 Hard-copy Tender Opening

Tenders received in hard copy shall be opened together at one time in a suitable place and in the presence of two officers who shall not have any conflicts of interest with the tender process and shall be appointed by the Assistant Commercial Director (managing the Commercial Process Team); ~~Commercial Services~~. Both Officers shall initial each tender and sign a schedule of the tenders opened.

#### C.5.2 Health and Safety

C.5.2.1 For High Risk Work or services regardless of value (see Order C.1.1) or for works or services of Contract Value £25,000 or above – including, without limitation, those that are applicable and notifiable under the Construction (Design and Management) Regulations 2007 – Contractors shall be required to provide:

(1) Selection Stage (Pre-Qualification)

(a) At the earliest reasonable stage in the letting of the Contract and no later than the time when expressions of interest are received, Contractors shall provide either:

- a valid registration with the Contractors Health and Safety Scheme (CHAS) or equivalent scheme registered with the Safety Schemes in Procurement (SSIP) Forum (see Order C.1.1);

or the following:

- if requested, a copy of the Contractor's current Health and Safety Policy document;
- a detailed breakdown of the number and nature (i.e. type of injury, disease etc.) of RIDDOR reports that the Contractor has had to make within the last 5 years; and
- details of any breaches of health and safety legislation by the Contractor, or employees of the Contractor, which have led to either the serving of a prohibition or improvement notice, or both, within the last 5 years.

(b) For those operations to which the Construction Design and Management Regulations 2007 (CDM) Regulations apply:

- Contractors must hold a valid registration with the Contractors Health and Safety Scheme (CHAS) or

equivalent scheme registration with the Safety Schemes in Procurement (SSIP) Forum.

- (c) In both (a) and (b) above, any other health and safety information deemed necessary by the OD Manager (Safety & Employee Wellbeing) required because of the size or specialised nature and risks associated with the Contract.

(2) Tender Stage

At the tender stage (unless defined as low risk work by the OD Manager - Safety and Employee Well Being):

- a clear specification of the resources they propose to provide to control and manage the significant health and safety risks; and
- evidence of competence to carry out the safety critical aspects of the work in accordance with health and safety law.

This information shall be forwarded to the Contract Lead (or equivalent) for approval. Where the Contract Lead believes (for reasons of the complexities of the health and safety requirements) specialised assistance is required, the OD Manager (Safety & Employee Wellbeing) will provide advice on the adequacy of the material submitted.

(3) Monitoring the Contract

On commencement of the work the Contract Lead will put in place methods to monitor the health and safety performance of the Contractor commensurate with the size, scope and risks associated with the Contract. Where required the O D Manager (Safety & Employee Wellbeing) will provide advice.

C.5.2.2 No such Contract shall be awarded unless:-

- (1) the Contractor's documents referred to in C.5.2.1 have been approved by the appropriate persons described above; or
- (2) in exceptional circumstances (for example, very specialised Contracts with intricate health and safety requirements) with the direct approval of the OD Manager (Safety & Employee Wellbeing).

**ORDER C.6 - AWARD OF CONTRACT**

**C.6.1 Authority to award Contracts**

---

C.6.1.1 The ~~procurement and proposal to~~ award ~~of every~~ Contract ~~must be clearly defined within the contract award approval form and~~ must be consistent with these Orders and any relevant legislation and this must be confirmed by the Director of Commercial Services (or ~~another duly delegated~~ other officer authorised by the Director of Commercial Services) for Contracts with a Contract Value over £25,000 (Goods) and over £50,000 (~~Services~~). ~~Where appropriate, the financial, human resources, legal and equalities implications must be agreed with the relevant department before the procurement strategy is presented to the Director of Commercial Services.~~ Works or Services).

C.6.1.2 For Capital Expenditure Projects the SRO must also obtain approval from the Capital Programme Group (CPG). Commercial Services sign-off, as required by C.5.1.1, may be obtained at the CPG.

C.6.1.3 No Contract shall be entered into unless also authorised in accordance with the Constitution and the Leader's Scheme of Delegations by the ~~Council~~, Cabinet, a Cabinet Member, a Committee or an Officer. For the avoidance of doubt, this is in addition to the confirmation of the Director of Commercial Services under order C.6.1.1.

#### C.6.2 **Selecting the Successful Contractor**

C.6.2.1 Subject to C.6.2.2, every Contract shall be awarded to the Contractor submitting the most economically advantageous tender or quote on the basis of pre-determined evaluation criteria.

C.6.2.2 Where a procurement procedure would lead to acceptance of a tender or quotation which:

- (a) would not be the most economically advantageous tender decided by reference to pre-determined evaluation criteria (where payment is to be **made** by the Council); or
- (b) would not be the highest amount of money which could be received by the Council (where payment is to be **received** by the Council);

the person or body authorised in accordance with the Constitution and the Leader's Scheme of Delegations to award the Contract may still approve the award of the Contract, in conjunction with the Director of Commercial Services. The reasons for such a decision shall be formally recorded.

#### **ORDER C.7 - CONTRACTS**



**C.7.1 Forms of Contract**

C.7.1.1 ~~The~~For the purposes of The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 the Council has specified that the following Contracts must be in writing;

C.7.1.1.1 Those with a Contract value greater than £25,000 (Goods) or £50,000 (Works or Services);

C.7.1.1.2 Any Contract awarded after a competitive process as determined under order C.4.2.4;

C.7.1.1.3 Any Contract as specifically directed under this order by the Director of Commercial Services or the Director of Legal Services, or an Officer acting on their behalf.

C.7.1.2 It is recommended that all other Contracts are in writing and where not must be evidenced in writing. For the purposes of these Orders a Contract is in writing if all the terms agreed between the parties are set out in a document which is signed or sealed in accordance with these Orders. A Contract is evidenced in writing if all the terms agreed between the parties are set out in a number of documents which can be produced to prove the terms of the agreement.

C.7.1.3 For Contracts which are required to be in writing by virtue of order C.7.1.1 the Procurement Professional will determine the appropriate form of Contract to use.

C.7.1.2 In all cases it is expected that Model Forms of Contract should be used as standard; additional relevant clauses specific to the Contract should be added, where applicable. Model Forms of Contract for Goods, Services and Consultancy are available from Commercial Services. Contact Commercial Services for further advice.

**C.7.2 Contracts – Signed or by Deed**

C.7.2.1 Contracts of Contract Value ~~less than~~between £2500 and £500,000 shall be signed unless the Director of Legal Services recommends otherwise.

C.7.2.2 Contracts of Contract Value £500,000 or more shall be by deed and so under the Council Seal, except with the approval of the Director of Legal Services.

**C.7.3 Contracts – By Deed**

- C.7.3.1 The Council Seal shall only be applied in the presence of the Director of Legal Services, the Assistant Director of Legal Services (People), the Assistant Director of Legal Services (Place) or some other person authorised by the Director of Legal Services who shall also attest the sealing and enter brief particulars of it, signed by him or her, in a book kept for the purpose.
- C.7.3.2 The Council Seal shall only be applied to a document when there ~~is~~are the necessary ~~authority~~authorities in place for the award of the Contract.

**C.7.4 Contracts – Signed**

- C.7.4.1 The Director of ~~Legal~~Commercial Services, ~~the any~~ Assistant Director of ~~Commercial Services, the Director of~~ Legal Services (~~People~~) or ~~the and any~~ Assistant Director of Legal Services (~~Place~~) are each authorised by the Council to sign ~~Contracts~~.

~~C.7.4.2 Where any~~ Contract.

~~C.7.4.2 Any Contract that falls within order 7.1.1 must, in order to comply with The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001, be signed by two persons on behalf of the Council. In these cases such Contracts shall be signed by the SRO and any person authorised under order C.7.4.1.~~

~~C.7.4.3 Any other Contract that~~ is not by deed, ~~the Contract~~ can be signed by the relevant ~~SRO (see Order C.1.1)~~.

~~C.7.4.3 Where any property is to be purchased by the Council at auction, the Director of Legal Services may authorise in writing a person to bid at the auction on the Council's behalf and that person will also be authorised to sign any Contract arising for the purchase of the property.~~

~~C.7.4.4 A contract shall only be signed when there are the necessary authorities in place for the award of the Contract except that the Director of Commercial Services may waive the requirement for the contract award approval document to be signed. For the avoidance of doubt, the requirement for contract awards to be approved in accordance with the Leader's scheme of delegation cannot be waived.~~

**C.7.5 Contracts Register**

~~Once a Contract~~ The Council via Commercial Services is required by Government to publish an up to date contract register on the internet. The e-

tendering system (YORtender) automatically produces this once a tender has been awarded-it. It is the responsibility of the SRO to ensure that all Contract details ~~required by Commercial Services that have not been let through YORtender~~ are provided to Commercial Services in a timely fashion.

#### C.7.6 **Contract Management**

It is the responsibility of the SRO to ensure appropriate Contract management arrangements are put in place, as specifically defined by Commercial Services.

#### C.7.7 **Payment in Advance**

The Council does not normally agree to provide payment in advance of satisfactory performance or delivery. Advice must be sought from the Director of Commercial Services where payment in advance is required by a Contractor.

## Article 7 - The Executive

### 7.06 Responsibility for Functions

The Leader will maintain a scheme of delegation setting out responsibilities for executive functions as between the Cabinet as a whole, individual Executive Members, Committees of the Cabinet (the membership of which can only include Cabinet Members), Area Committees (Community Assemblies), Officers and joint arrangements or otherwise as permitted by law. ~~Executive functions may also be exercised by an individual Member of the Council in the circumstances permitted by section 236, Local Government and Public Involvement in Health Act 2007.~~ The Leader will notify the Monitoring Officer of any changes to the Leader's Scheme ~~within 48 hours of them being made.~~ These changes will come into effect on receipt of the notification by the Monitoring Officer (or his/her deputy) or at such later time as the Leader may specify at the time of notification.

## Proposed Amendments to Part 3 of the Constitution

### 3.2 LOCAL CHOICE FUNCTIONS

The following table indicates which local choice functions are to be exercised as non-executive functions and which as executive functions. Those which are non-executive are delegated in accordance with this Part of the Constitution or exercised by Full Council, as indicated in the table or if not otherwise delegated. The exercise of those which are executive functions is for the Leader, either personally or through the Leader's Scheme of Delegation of Executive Functions.

	<b>Local Choice Function</b>	<b>Statutory Provision</b>	<b>Executive or Non-Executive</b>	<b>Delegation of Functions</b>
1.	Any function under a local Act other than a function specified or referred to under Regulation 2 or Schedule 1.		Non-executive	Reserved to Full Council subject to specific delegations to Area Committees (Community Assemblies) if included in their terms of reference or to officers as set out in the Authority's arrangements for officer delegations.
2.	The determination of an appeal against any decision made by or on behalf of the Authority.	<del>Local Authorities (Functions &amp; Responsibilities) Regulations 2000 (S.I. 2853).</del>	Non-Executive	Delegations to Council committees if included in their terms of reference or to officers as set out in the Authority's arrangements for officer delegation.
3.	The appointment of Review Boards.	Regulations made under Sub-section (4) of section 34 (determination of claims and reviews) of the	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive

	Local Choice Function	Statutory Provision	Executive or Non-Executive	Delegation of Functions
		Social Security Act 1998.		Functions.
4.	The making of arrangements in respect of appeals against the exclusion of pupils from maintained schools.	Subsection (1) of Section 67 of Schedule 18 to the 1998 Act.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
5.	The making of arrangements in respect of admission appeals.	Section 94(1) and (4) of, and schedule 24 to, the 1998 Act.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
6.	The making of arrangements in respect of children to whom section 87 applies: appeals by governing bodies.	Section 95(2) of, and Schedule 25 to, the 1998 Act.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
7.	<del>The making of arrangements under S.20 (questions on police matters at Council meetings) Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority. Not</del>	<del>Section 20 Police Act 1996.</del>	<del>Non-executive</del>	<del>Reserved to Full Council subject to specific delegations to officers as set out in the Authority's arrangements for officer delegations.</del>

	Local Choice Function	Statutory Provision	Executive or Non-Executive	Delegation of Functions
	<u>applicable following the abolition of the South Yorkshire Police Authority.</u>			
8.	<del>The making of appointments under paragraphs 2-4 (appointment of members by relevant Councils) of Schedule 2 (Police Authorities established under section 3) to the Police Act 1996 Not applicable following the abolition of the South Yorkshire Police Authority.</del>	<del>Paragraphs 2 to 4 of Schedule 2 of the Police Act 1996.</del>	<del>Non-executive</del>	<del>Reserved to Full Council subject to specific delegations to officers as set out in the Authority's arrangements for officer delegations.</del>
<u>9.</u>	<u>Repealed</u>			
<u>910.</u>	Any function relating to contaminated land.	Environmental Protection Act 1990, Part IIA.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
<u>101.</u>	The discharge of any function relating to the control of pollution or the management of air quality.	Pollution Prevention and Control Act 1990; Environment Act 1995 (Part IV); Environmental Protection Act 1990 (Part I); Clean Air Act 1993.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.

	<b>Local Choice Function</b>	<b>Statutory Provision</b>	<b>Executive or Non-Executive</b>	<b>Delegation of Functions</b>
142.	The service of an abatement notice in respect of a statutory nuisance.	Environmental Protection Act 1990, Section 80(1).	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
123.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Noise and Statutory Nuisance Act 1993, Section 8.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
134.	The inspection of an authority's area to detect any statutory nuisance.	S.79 Environmental Protection Act 1990.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
145.	The investigation of any complaint as to the existence of a statutory nuisance.	S.79 Environmental Protection Act 1990.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
156.	The obtaining of information as to interests in land.	Town and Country Planning Act 1990, Section 330.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.
167.	The obtaining of particulars of persons interested in land.	Local Government (Miscellaneous Provisions) Act 1976, Section 16.	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive



	Local Choice Function	Statutory Provision	Executive or Non-Executive	Delegation of Functions
				Functions.
178.	The making of agreements for the execution of highways works.	Highways Act 1980, Section 278 (substituted by the New Roads and Street Works Act 1991, Section 23).	Non-executive	Delegations to Council Committees if included in their terms of reference or to officers as set out in the Authority's arrangements for officer delegation.
189.	The appointment of any individual: (a) to any office other than an office in which he is employed by the Council; (b) to any body other than - (i) the Council; (ii) a joint committee of two or more authorities; or (c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment		Appointment of any Member of the Council or any other individual not being an officer of the Council - Non-executive  Appointment of any officer of the Council - Executive	Reserved to Full Council  Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions
1920.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Local Authorities (Functions & Responsibilities) Regulations 2000 (S.I. 2853) as amended by the Local Authorities (Functions & Responsibilities)	Executive	Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.

	Local Choice Function	Statutory Provision	Executive or Non-Executive	Delegation of Functions
		(Amendment) Regulations 2001 (S.I. 2212).		
<u>21.</u>	<u>Not Applicable</u>			
<u>22.</u>	<u>Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements.</u>		<u>Executive</u>	<u>Delegated in accordance with the Leader's Scheme of Delegation of Executive Functions.</u>

Note: The numbering in the above table is taken from Schedule 2, Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

### 3.5.4 Director of Legal Services

For the avoidance of doubt, only the Director of Legal Services shall have authority to commence, defend or settle any legal proceedings and may ~~de~~ arrange for the discharge of this function as he or she considers necessary or appropriate to protect the interests of the Council.

## **Extract from Executive Procedure Rules**

### **1. Arrangements for the exercise of executive functions**

#### **1.1 Executive decisions**

The Leader may discharge any function which is the responsibility of the Executive and must also determine and keep up to date a Scheme of Delegation (~~to be kept up to date in Part 3 of this Constitution~~) which may provide for executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) an individual Executive Member;
- (iii) a Committee of the Cabinet;
- (iv) an Officer;
- (v) an Area Committee (Community Assembly);
- (vi) Joint Arrangements; ~~or~~
- (vii) another local authority;

or otherwise as permitted by law.

#### **1.2 Appointments and delegations by the Leader**

At its Annual Meeting, the Leader will present to the Council the names and Wards of the Members he or she has appointed to the Executive, to any Committee of the Cabinet and to be the Deputy Leader. Where the Leader removes an Executive Member or the Deputy Leader from office, in accordance with Article 7, or appoints a Councillor to a vacancy in one of those offices, the Monitoring Officer will present a report to the next Ordinary Meeting of the Council setting out the changes made by the Leader.

At its Annual Meeting, the Leader will also present to the Council the Scheme of Delegation of Executive Functions he or she has made. This will contain, for the coming year, the following information in relation to executive functions and decisions:

- the extent to which they have been delegated to each individual or body ~~described as referred to~~ in paragraph 1.1 of this Rule, including details of any limitation to the authority delegated; and
- the terms of reference ~~and constitution~~ of such Cabinet Committees as the Leader appoints ~~and the names of the Executive Members appointed to them~~.

Where the Leader amends the Scheme of Delegation of Executive Functions in accordance with Article 7, the Leader will inform the Monitoring Officer and the Leader, or in his ~~or her~~ absence the Monitoring Officer will ~~as soon as practicable~~ present a report to ~~the next an~~ Ordinary Meeting of the Council setting out the changes made by the Leader.

### 1.3 Sub-delegation of executive functions

Subject to any ~~further restrictions imposed by the Leader in his or her Scheme of Delegation of Executive Functions, where executive functions have been delegated to the Cabinet, a Cabinet Committee, an Executive Member or an Area Committee they may be delegated further by such bodies or individuals in accordance with any statutory provisions~~ ~~statutory provisions~~ about the ~~discharge~~ ~~delegation~~ of executive functions, ~~and unless the Leader specifies otherwise:~~

- ~~(a) — Where executive functions have been delegated to the Cabinet, they may be delegated further to any of the individuals or bodies described in paragraph 1.1 of this Rule.~~
- ~~(b) — Where executive functions have been delegated to a Cabinet Committee or an Executive Member, they may be delegated further to an Area Committee, an officer, a Joint Arrangement or another local authority.~~

The delegation of an executive function does not prevent it from being discharged by the individual or body who delegated it.

## Article 4 - The Full Council

### 4.01 Meanings

- (a) **Policy Framework.** The Policy Framework means the following plans and strategies:-

- ~~•Annual Library Position Statement;~~
- ~~•Children and Young People's Plan;~~
- ~~•Crime and Disorder Reduction Strategy;~~
- Development plan documents (Section 15, Planning and Compulsory Purchase Act 2004);
- ~~•Plans and alterations which together comprise the Local Development Plan (Section 27, Town and Country Planning Act 1990);~~
- Licensing Authority Policy Statements under the Licensing Act 2003 and the Gambling Act 2005;
- Local Transport Plan;
- Sustainable Community Strategy;
- ~~•Youth Justice Plan.~~

- (b) **Budget.** The annual budget which includes the allocation of financial resources to different services and projects, including:

- revenue expenditure;
- proposed contingency funds including reserves and balances;
- setting the Council Tax (and any other local tax which may be within the control of the Council);
- decisions relating to the control of the Council's borrowing requirement;
- capital expenditure;

and the Treasury Management Strategy.

- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person or body under the Leasehold Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## EXTRACT FROM PART 3 – RESPONSIBILITY FOR FUNCTIONS

### 3.3.3 FUNCTIONS WHICH MAY NOT BE EXERCISED SOLELY BY THE EXECUTIVE

The Executive will prepare in draft and submit to Full Council for adoption as elements of the Budget and Policy Framework those policies, plans and strategies listed below. Council may require the Executive to reconsider or amend any draft plan or strategy submitted for consideration.

- ~~Annual Library Plan: Section 1(2) Public Libraries and Museums Act 1964~~
- ~~Children and Young People's Plan: Children and Young People's Plan (England) Regulations 2005~~
- ~~Crime and Disorder Reduction Strategy: Sections 5 and 6, Crime and Disorder Act 1998~~
- Development Plan documents, plans and alterations required by Section 15 Planning and Compulsory Purchase Act 2004 ~~and Section 27, Town and Country Planning Act 1990~~
- Licensing Authority Policy Statement: Section 349, Gambling Act 2005
- Local Transport plan: Section 108, Transport Act 2000
- Sustainable Community Strategy: Section 4, Local Government Act 2000
- ~~Youth Justice Plan: Section 40, Crime and Disorder Act 1998~~

A plan or strategy relating to the Council's borrowing, investments, capital expenditure and determination of minimum revenue provision

## Article 7 - The Executive

### 7.01 Role and Composition

The Executive will consist of the Council's Leader (the Leader) together with at least two but not more than nine Councillors appointed by the Leader to be Executive Members. These Councillors together will comprise the Cabinet. The Executive will exercise all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### 7.02 The Leader

The Leader will be a Councillor ~~elected~~ appointed to the position of Leader by the Council at its Annual Meeting for a period of one year. The Leader will hold office until the ~~day when the Council holds its first next~~ Annual Meeting after the Leader's normal day of retirement as a Councillor<sup>4</sup>, unless he or she:

- (a) resigns from the office; or
- ~~(b) is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she shall resume office at the end of the period of suspension); or~~
- ~~(c)(b) is no longer a Councillor for any reason other than during the period between the Leader's normal day of retirement as a Councillor and its first Annual Meeting thereafter; or~~
- ~~(d)(c) is removed from office by resolution of the Council.~~

The Leader will:

- (a) Act as the Council's principal public spokesperson;
- (b) Give overall political direction to the Council;
- (c) Appoint the Deputy Leader and other Executive Members;
- (d) Exercise the executive functions of the Council and determine the Scheme of Delegation for executive functions (and for the avoidance of doubt nothing in the Scheme of Delegation shall in any way limit the authority of the Leader to exercise the Council's executive functions);
- (e) Chair meetings of the Cabinet; and

<sup>4</sup>~~In accordance with Section 44E and 44F Local Government Act 2000~~

- (f) Represent the Council on such external bodies (where the function of the outside bodies relates to executive functions of the Council) as the Leader may determine.

### 7.03 The Deputy Leader

The Leader will appoint one of the Executive Members to act as Deputy Leader.

The Deputy Leader will hold office until the end of the Leader's term of office unless he or she:

- (a) resigns from the office; or
- ~~(b) is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she shall resume office at the end of the period of suspension); or~~
- ~~(be)~~ is no longer a Councillor; or
- ~~(dc)~~ is no longer an Executive Member; or
- ~~(ed)~~ is removed from office by the Leader who must give written notice of any removal to the Monitoring Officer and the person concerned. The removal will take effect five working days after receipt of the notice by the Monitoring Officer.

Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another Councillor to the position by giving notice to the Monitoring Officer. The appointment will take effect five working days after receipt of the notice by the Monitoring Officer.

If for any reason:

- (a) the Leader is unable to act; or
- (b) the office of elected Leader is vacant

the Deputy Leader will act in his or her place.

If for any reason:

- (a) the Leader is unable to act or the office is vacant; and
- (b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant

the Cabinet must act in the Leader's place, or arrange for an Executive Member to act in his or her place.



## EXTRACTS FROM COUNCIL PROCEDURE RULES

**5 Meetings of the Council and Other Bodies**

- 5.1 The annual meeting of the Council shall be held in the Town Hall at 11.30 a.m. on the third Wednesday in May.
- 5.2 The annual meeting will:
- (a) elect a person to preside if the Chair is not present;
  - (b) elect the Lord Mayor (Chair) of Council;
  - (c) elect the Deputy Lord Mayor (Deputy Chair) of Council;
  - (d) receive any apologies for absence from Members of the Council;
  - (e) receive declaration from Members of interests in the matters to be considered at the meeting;
  - (f) approve the minutes of the last meeting
  - (g) ~~if necessary,~~ appoint a Leader of the Council;
- 

**24 Election-Appointment and Removal of Leader**

- 24.1 The Council shall at its Annual Meeting ~~appoint held in 2010, or at any other subsequent Annual Meeting held on a day when the Leader's term of office is to end by virtue of Section 44E(3) Local Government Act 2000~~ elect a Leader for a period of one year to act for a four year term or to the end of their current term of office as a Ward Councillor. If the Council fails to elect the Leader at the relevant Annual Meeting, the Leader is to be elected at a subsequent meeting.
- 24.2 The Leader may be removed from office by resolution of the Council.

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, its Committees, Overview and Scrutiny and Policy Development Committees, Area Committees, the Standards Committee and Regulatory Committees and the Executive (together called meetings).

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. RIGHTS TO ATTEND MEETINGS**

- 3.1 Members of the public and the media shall, subject to the exceptions contained in these and other Rules in this Constitution, be entitled to attend all meetings to which these Rules apply.
- 3.2 Attendance at meetings may be limited by the capacity of the room in which the meeting is held. The Chair of the meeting may eject members of the public from a meeting in respect of disturbance or unruly behaviour. At meetings of the Full Council, in addition to Members and officers of the Council, admittance to the floor of the Council Chamber shall be at the discretion of the Lord Mayor.
- 3.3 Photography, video and sound recording shall be at the discretion of the Chair of the meeting. This shall generally be permitted where meetings are held in public, provided adequate notice has been given and convenient arrangements can be made.

### **4. NOTICE OF MEETING**

The Council will give at least five clear working days' notice (excluding the days on which the meeting is called and on which it is held) of any meeting to which these Rules apply by posting details of the meeting at Sheffield Town Hall and/or Howden House and on the Council's website, except that where the meeting is convened at shorter notice in accordance with these Rules, details shall be posted from the time the meeting is convened.

**5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports which are open to the public, available for inspection at Sheffield Town Hall [and on the Council's web-site](#) at least five clear working days before the meeting except that:

(a) where the meeting is convened at shorter notice in accordance with these Rules, copies of the agenda and reports shall be available for inspection from the time the meeting is convened; and

(b) where an item is added to an agenda in accordance with these Rules, copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any report for the meeting relating to that item, shall be available for inspection for the time the item was added to the agenda.

**6. ITEMS OF BUSINESS**

An item of business may not be considered at a meeting unless:

(a) A copy of the agenda including the item (or a copy of the item) is available for inspection by the public for at least five clear days before the meeting; or,

(b) Where the meeting is convened at shorter notice in accordance with these Rules, such copies are available for inspection from the time the meeting is convened; or

(c) There are, in the opinion of the Chair of the meeting, special circumstances for considering the item as a matter of urgency, which shall be specified in the minutes of the meeting.

**7. SUPPLY OF COPIES**

The Council will supply to any person, on payment of a charge for copying, postage and any other costs, copies of:-

(a) any agenda and reports which are open to public inspection;

(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(c) if the Monitoring Officer thinks fit, any other documents supplied to Councillors in connection with an item.

## 8. ACCESS TO MINUTES AND DOCUMENTS AFTER THE MEETING

The Council will make available for inspection and, upon payment of a charge for copying, postage and any other costs, copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 9. BACKGROUND PAPERS

### 9.1 List of background papers

The officer responsible for a report will set out in it a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in these Rules) and in respect of Executive reports, the advice of a political advisor.

### 9.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. These documents will be available on the Council's website and at the Sheffield Town Hall.

## 10. SUMMARY OF THE PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be included in each agenda for Council meetings which will be kept at and available to the public at the Town Hall, Pinstone Street, Sheffield S1 2HH or on the Council's website.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS AND DOCUMENTS

### 11.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely that confidential information would be disclosed.

Confidential information means:

(a) information provided to the Council by a Government Department upon terms (however expressed) which forbid the disclosure of the information to the public; and

(b) information the disclosure of which to the public is prohibited by or under any enactment or by order of the Court.

### 11.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Exempt information means information falling within one or more of the following categories, subject to the conditions relating to that category.

<b>Category</b>	<b>Condition</b>
1. Information relating to an individual	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information and provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
2. Information which is likely to reveal the identity of an individual	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information, provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)	Information falling within this paragraph is not exempt if it must be registered under various statutes, such as the Companies Acts, Charities Acts, Friendly Societies Acts, Industrial and Provident Societies Acts or the Building Societies Acts. Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information, provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
5. Information in respect of which a claim to legal professional privilege could be maintained in	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption

<b>Category</b>	<b>Condition</b>
legal proceedings	outweighs the public interest in disclosing the information, provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
6. Information which reveals that the Council proposes a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information, provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information, provided the information does not relate to proposed development for which the Local Planning Authority may grant itself planning permission under Planning Regulations.
<del>7a Information which is subject to any obligation of confidentiality (for the Standards Committee and its Sub-Committees only)</del>	<del>Specific rules apply to hearings of Standards Committees only pursuant to the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006. Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</del>
<del>7b Information relating in any way to matters concerning national security (for the Standards Committee and its Sub-Committees only)</del>	<del>Specific rules apply to hearings of Standards Committees only pursuant to the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006. Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</del>

Category	Condition
<del>7c Information presented to a Standards Committee or any of its Sub-Committees of a Standards Committee relating to any matter referred to it under Chapter II of Part II of the Local Government Act 2000 and related Regulations.</del>	<del>Specific rules apply to hearings of Standards Committees only pursuant to the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006. Information is exempt information if and so long as in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</del>

### 11.3 Exclusion of access by the public to reports

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with this Rule, the meeting is likely not to be open to the public. Where the whole or part of any report for a public meeting is not available for inspection by the public, every copy of the report shall be marked “not for publication” and it shall be stated on the report:

- that it contains confidential information; and either
- Identifies which of the descriptions of confidential or exempt information in this Rule may apply; or
- Indicates that the report or part of the report contains the advice of a political assistant.

## 12. TAKING KEY DECISIONS

### 12.1 Public access to Executive meetings

A meeting of the Executive must (subject to the general exception and special urgency provisions of these Rules) comply with the public access requirements of these Rules:

(a) when it meets collectively (as the Cabinet or a Cabinet Committee) to make a Key Decision (as defined in Article 13 of this Constitution); or

(b) when it meets with an officer present (other than a Political Assistant) for a substantive discussion of a Key Decision to be taken collectively, within the following 28 days. This requirement does not apply to meetings whose sole purpose is for officers to brief members.



## 12.2 Advance notice of Key Decisions

Subject to the general exception and special urgency provisions of these Rules, a Key Decision may not be taken by the Executive Cabinet, Cabinet Committee or individual Cabinet Member, an Area Committee, an officer or through Joint Arrangements unless:

- (a) ~~at least 28 days' published notice of the decision to be taken is given notice, in the form of a Forward Plan which complies with these Rules, has been published in connection with the matter in question (the Cabinet and Cabinet Highways Forward Plans will be used to give the required notice); and~~
- ~~(b) at least five clear working days have elapsed since the publication of the Forward Plan; and~~
- (be) where the decision is to be taken at a meeting of the Cabinet or a Cabinet Committee, notice of the meeting has been given in accordance with these Rules.

## 13. THE FORWARD PLAN

### ~~13.1 Period of Forward Plan~~

~~Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.~~

~~The Forward Plan will be updated on a monthly basis and a new Forward Plan produced at least 14 days before the first day on which the Forward Plan will come into effect. Any outstanding matters from the previous Forward Plan will be included in the latest Forward Plan.~~

~~The most recent Forward Plan shall be taken to have superseded any earlier Forward Plan.~~

### 13.12 Contents of the Forward Plan

Each Forward Plan will contain details of matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive (Cabinet, cabinet Committee or individual Cabinet Member), an Area Committee, an officer, or through Joint Arrangements during the period covered by the Plan. In relation to each matter, the following

particulars (apart from any exempt or confidential information or the advice of a Political Assistant).will be included:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his or her name and title, if any, and where the decision taker is a body, its name and ~~details of membership~~ a list of members;
- (c) the date on which, or the period within which, the decision will be taken;
- ~~(d)~~ a list of the documents submitted to the decision taker for consideration in relation to the matter.
- ~~(ed)~~ the identity of the principal groups whom the decision taker proposes to consult before taking the decision;the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- ~~(fe)~~ that other documents relevant to those matters may be submitted to the decision maker;the means by which any such consultation is proposed to be undertaken;
- ~~(fg)~~ the procedure for requesting details of those documents (if any) as they become available;the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- ~~(g)~~ a list of the documents submitted to the decision taker for consideration in relation to the matter.

#### ~~14~~ **PUBLICITY IN CONNECTION WITH KEY DECISIONS**

~~The Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

- ~~(a)~~ that Key Decisions are to be taken on behalf of the Council;
- ~~(b)~~ that a Forward Plan containing particulars of the matters on which Key Decisions are to be taken will be prepared on a monthly basis;

- ~~(c) — that the Plan will contain details of the Key Decisions to be made for the four month period following its publication;~~
- ~~(d) — that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices and on the Council's website;~~
- ~~(e) — that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the Plan;~~
- ~~(f) — the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;~~
- ~~(g) — that other documents may be submitted to decision takers;~~
- ~~(h) — the procedure for requesting details of documents (if any) as they become available; and~~
- ~~(i) — the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.~~

**145. GENERAL EXCEPTION FOR A MATTER NOT IN THE FORWARD PLAN**

If it has not been possible to give 28 days' notice of a matter which is likely to be a Key Decision, then the decision may only be made if :- has not been included in the Forward Plan, then subject to the following Rule relating to special urgency, the decision may still be taken if:

- ~~(a) — the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;~~
- (ab) the Monitoring Officer has given written notice to the Chair of a relevant ~~Overview and~~ Scrutiny and Policy Development Committee, or if there is no such person, each Member of that Committee, by notice in writing of the matter ~~about~~ which the decision is to be made;
- (eb) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website;

~~(cd)~~ at least 5 clear days have elapsed since the Monitoring Officer complied with paragraphs (a) and (b) in this Rule; ~~and~~

~~(d)~~ As soon as reasonably practicable after the Monitoring Officer has complied with paragraphs (a), (b) and (c) he or she must—

(i) make available at the Sheffield Town Hall offices, a notice setting out the reasons why it has not been possible to give 28 days’; and (ii) publish that notice on the Council’s website.

~~(ee)~~ where the executive decision is to be taken at a meeting of the Cabinet or a Cabinet Committee, or by Individual Member or Officer the ~~meeting complies with the~~ public access requirements of these Rules must be complied with.

#### 156. SPECIAL URGENCY FOR TAKING A KEY DECISION

Where the date by which a Key Decision must be taken makes it impracticable to comply with the previous General Exception Rule, then the decision can only be taken if the decision taker (if an individual) or the Chair of the Body making the decision, has obtained agreement that making the decision is urgent and cannot reasonably be deferred from

(a) the Chair of a relevant ~~Overview and~~ Scrutiny and Policy Development Committee; or

(b) if there is no such person or that person is unable to act, the Lord Mayor; or

(c) if neither of those persons is able to act, the Deputy Lord Mayor.

As soon as reasonably practicable after the Monitoring Officer has complied with paragraph (a), (b) and (c) he or she must—

(i) make available at the Sheffield Town Hall offices, a notice setting out the reasons why it has not been possible to give 28 days’; and (ii) publish that notice on the Council’s website.

A Key Decision taken under paragraphs 14 and 15 of these Rules will be exempt from call-in.

The Leader will submit an annual ~~quarterly~~ report to the Council containing details of each ~~on the~~ executive decisions taken under this

Rule ~~in the preceding three months~~. The report will include ~~:- the number of decisions so taken and a summary of the matters in respect of which each decision was made.~~

~~(a) particulars of each decision made; and~~

~~(b) a summary of the matters in respect of which each decision was made.~~

## 167. RIGHTS OF OVERVIEW AND SCRUTINY AND POLICY DEVELOPMENT COMMITTEES OVER KEY DECISIONS

### 167.1 When an Overview and Scrutiny and Policy Development Committee can require a report

If ~~an Overview and~~ Scrutiny and Policy Development Committee considers that ~~an executive decision~~ ~~Key Decision~~ has been taken which was not:

(a) ~~treated as being a key decision~~~~included in the Forward Plan;~~  
~~and/or~~

~~(b) a relevant Scrutiny and Policy Development Committee are of the opinion that the decision should have been treated as a key decision~~

~~(b) properly decided in accordance with the previous general exception and special urgency Rules;~~

the Committee may by resolution require the Executive which is responsible for the decision to submit a report to the Council within such reasonable time as the Committee may specifyies.

The Monitoring Officer may also require such a report and shall do so on behalf of the Committee when so requested by the Chair or any 5 Members of the Committee.

### 167.2 Executive report to Council

When required in accordance with this Rule, the Executive will prepare a report for the next available meeting of the Council, except that if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

The report to Council will set out particulars of the decision, including reasons for the decision,; the individual or body making the decision, and if the Leader/Executive is of the opinion that it was not a key decision, the reasons for that opinion.

## **178 PRIVATE MEETINGS OF THE CABINET OR CABINET COMMITTEES**

178.1 ~~The Leader~~An Executive Committee, –will, subject to this Rule, decide whether the Executive or part of such meetings will relating to matters which are not Key Decisions, ~~will~~ be held in public or private.

178.2 In circumstances where it has been decided to hold an Executive meeting or part of a meeting in private~~If the Leader decides to hold a private meeting,~~ Me, 28 clear days before such a private meeting , the Monitoring Officer will :-

(a) make available at the Sheffield Town Hall, a notice of its intention to hold the meeting in private, including a statement of the reason for the meeting to be held in private; and

(b) publish that notice on the Council's website..

~~members of the~~ 17.3 Cabinet or a Cabinet Committee will be entitled to receive 5 clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. The Council will also:-

(a) make available at the Sheffield Town Hall, a further notice of its intention to hold the meeting in private; and

(b) publish that notice on the Council's website, which will provide:-.

- a statement of the reasons for the meeting to be held in private;
- details of any representations received by the decision-making body about why the meeting should be open to the public; and
- a statement of its response to any such representations.

~~17.4~~ 18.3 ~~The Cabinet or a Cabinet Committee may meet in private if:~~

~~(a) it meets to consider a matter that does not involve a Key Decision; or~~

- ~~(b) it meets to consider a matter in respect of which a Key Decision will be made, but the date for such decision included in the Forward Plan is more than 28 days after the date of the meeting and no officer is present (other than a Political Assistant);~~
- ~~(c) the principal purpose of the meeting is for an officer to brief the decision maker in matters connected with the making of an executive decision. Where the date by which a meeting must be held makes compliance with the above impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from—~~
- ~~(a) the Chair of the relevant Scrutiny and Policy Development Committee; or~~
- ~~(b) if there is no such person, or if the Chair of the relevant Scrutiny and Policy Development Committee is unable to act, the Lord Mayor; or~~
- ~~(c) where there is no Chair of either the relevant Scrutiny and Policy Development Committee or the Lord Mayor are unable to act, the Deputy Lord Mayor, that the meeting is urgent and cannot reasonably be deferred.~~
- ~~As soon as reasonably practicable after the decision-making body has obtained agreement to hold a private meeting, it must—~~
- ~~(a) make available at Sheffield Town Hall a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and~~
- ~~(b) publish that notice on the Council's website..~~

**178.54** The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and Cabinet Committees. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place. A private meeting of the Executive may not meet to take any decision unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominees are present or have waived their entitlement to attend. An Executive meeting may only take a decision if there is an officer present with responsibility for recording and publishing the decision.

**189. BASIS OF DECISIONS BY THE EXECUTIVE**

---

### 189.1 Decisions to be based on reports and with an officer present

A decision may only be taken by the Executive:

- (a) on the basis of a written report, setting out key legal, financial, service, equal opportunities, human rights, land and property and corporate implications, as well as the reasons for report recommendations and the alternatives considered and rejected; and
- (b) other than in the case of a decision taken by an individual Executive Member, when the Monitoring Proper-Officer or his or her nominee is present.

### 189.2 Record of executive decisions

As soon as is reasonably practical after a decision has been made by Executive Members at a meeting or individually, whether made in public or private, the Monitoring Officer shall ensure that a written statement is produced in respect of every executive decision made which includes:

- a record of the decision, including the date it was made;
- a record of the reasons for the decision;
- details of any alternative options considered and rejected when the decision was made;
- a record of any conflict of interest declared by any Member of the decision making body or, in the case of a decision by an individual Executive Member, any conflict of interest declared by any other Executive Member consulted by him/her in relation to the decision; and,
- in respect of any declared conflict of interest, a note of any relevant dispensation granted by the Monitoring Officer Standards Committee

### 189.3 Decisions subject to call-in

All decisions of the Executive, whether taken collectively or by individual Executive Members, must be published and may be subject to call-in in accordance with the Scrutiny Procedure Rules in Part 4 of this Constitution.

### 1920. DECISIONS BY INDIVIDUAL EXECUTIVE MEMBERS

---



1920.1 Any decisions taken by an individual Executive Member of the Executive, must comply with the previous Rule 19.

1920.2 When an officer prepares a report which is to be given to an individual Executive Member for decision, he or she must first give a copy of that report to the Monitoring Officer.

1920.3 The Monitoring Officer will publish the report to the relevant ~~Overview and Scrutiny~~ and Policy Development Committee, the Chief Executive and Chief Finance Officer. Subject to the exceptions in these Rules, the report will be made publicly available as soon as reasonably practicable.

1920.4 The Executive Member may not make any Key Decision except in compliance with the requirements of these Rules relating to Key Decisions and will not make the Key Decision until the report on which it is to be based has been available to the ~~Overview and Scrutiny~~ and Policy Development Committee and, if appropriate, for public inspection for 5 clear working days.

#### 204. **KEY DECISIONS MADE BY OFFICERS**

204.1 An officer may only make a Key Decision on the basis of a written report setting out key legal, financial, service, equal opportunities, human rights, land and property and ~~and~~ corporate implications and in compliance with the requirements of these Rules relating to Key Decisions.

204.2 Where an officer receives a report which he or she intends to take into account in making a Key Decision he or she must ensure that the Monitoring Officer receives a copy of the report and makes it available in accordance with this Rule.

204.3 The Monitoring Officer will publish the report to the relevant ~~Overview and Scrutiny~~ and Policy Development Committee, the Chief Executive and the Chief Finance Officer. Subject to the exceptions in these Rules, the report will be made publicly available as soon as reasonably practicable.

204.4 The officer will not make the Key Decision until the report has been available to the ~~Overview and Scrutiny~~ and Policy Development Committee and, if appropriate, for public inspection for 5 clear working days.

204.5 As soon as is reasonably practicable after an officer has made a Key Decision he or she shall produce a written statement including:

- a record of the decision, including the date when it was made;
- a record of the reasons for the decision;
- details of any alternative options considered and rejected when the decision was made;
- a record of any conflict of interest declared by any Member who was consulted by the officer in relation to the decision; and,
- in respect of any declared conflict of interest, a note of any relevant dispensation granted by the Monitoring Officer Standards Committee.

204.6 Key Decisions by officers must be published and may be subject to call-in in accordance with the Scrutiny Procedure Rules in Part 4 of this Constitution

## 21. DECISIONS MADE BY OFFICERS OTHER THAN KEY DECISIONS

21.1 As prescribed by the Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 certain categories of Executive Decisions taken by officers (other than Key Decisions) are required to be recorded

Officers must comply with the the above Regulations and general principles of open and transparent decision making. The Director of Legal Services will provide guidance as to which decisions fall within the regulation.

21.2 The Regulations also require all papers considered by the decision maker to be published on the website. To simplify this procedure a short report should be prepared for the decision maker to base their decision on.

## ~~222.~~ **OVERVIEW AND SCRUTINY AND POLICY DEVELOPMENT COMMITTEES' RIGHTS OF ACCESS TO EXECUTIVE DOCUMENTS**

### ~~222.1~~ **Rights to copies**

Subject to the limitations in this Rule, ~~an Overview and~~ Scrutiny and Policy Development Committee will be entitled to a copy of any document which:

(a) is in the possession or under the control of the Executive; and

(b) contains material relating to;

- any business which has been transacted at a public or private meeting of the Executive; or
- any decision taken by an individual Executive Member; or
- any ~~Key-d~~Decision that has been taken by an officer.

22.2 Where a member of a Scrutiny and Policy Development Committee requests a document that falls within paragraph 23.1 (a) and (b), the Executive must provide the document as soon as is reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

~~22.32~~ **Limitations on rights**

~~An Overview and~~ Scrutiny and Policy Development Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to ~~scrutinise~~scrutinise and any review contained in any programme of work of such a Committee or Sub-Committee of such a Committee; or
- (c) any document or part of any document which contains the advice of a Political Adviser.

~~23.3~~ **ADDITIONAL COUNCILLORS' RIGHTS OF ACCESS TO EXECUTIVE DOCUMENTS**

~~23.3.1~~ **Material relating to previous business**

Subject to the following exception, all Councillors will be entitled to inspect any document (except those in draft form) which:

- (a) is in the possession of or under the control of the Executive; and
- (b) contains material relating to:

- any business which has been transacted at a ~~private~~ public meeting of the Executive; or
- any decision made by an individual Executive Member; or
- any Key Decision that has been taken by an officer.
- any Officer decision prescribed by the Council as advised by the Director of Legal Services for the purpose of Regulation 13 (4) of the Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

(c) contains material relating to any business transacted at a private meeting of the Executive only where that information falls within :-

(i) paragraph 3 of Schedule 12A to the Local Government Act 1972 – information relating to the financial or business affairs of any particular person (including the Authority holding the information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract)

(ii) paragraph 6 of Schedule 12A to the Local Government Act 1972 – information which reveals that the Council proposes to:-

(A) give under any enactment, a notice under or by virtue of which requirements are imposed on a person; or

(B) make an order or direction under any enactment.

Such documents shall be available for inspection by any Member when the meeting concludes or, where a Member makes an executive decision or an officer makes a key decision, immediately after the decision has been made.

This provision does not require a document to be available if it appears to the Monitoring Officer that:

- it contains confidential or exempt information as defined in these Rules, (other than paragraphs 3 and 6 of Schedule 12A of the Local Government Act 1972 as stated above); or
- it contains the advice of a Political Assistant.

| ~~233.22~~      **Material relating to Key Decisions**

All Councillors will be entitled to inspect any document (except those in draft form) in the possession or under the control of the Executive which relates to any Key Decision unless it contains confidential or exempt information as defined in these Rules or the advice of a Political Assistant.

| ~~233.33~~      **Rights to be additional**

These rights are additional to any other rights Councillors may have.

## Extract from Article 16 - Suspension, Interpretation and Publication of the Constitution

### 16.04 Definitions

In this Constitution '**Executive Director**' means an Officer designated in the Council's management Structure in Part 7 as an Executive Director ~~or the Deputy Chief Executive.~~

## Extract from the Council Procedure Rules

### (B) MISCELLANEOUS MATTERS

#### B1 Officers

- (1) For the purposes of Section 4 of the Local Government and Housing Act 1989, as modified by Schedule 5 to the Local Government Act, 2000, the Head of Paid Service shall be the Chief Executive.
- (2) For the purposes of Section 5 of the Local Government and Housing Act 1989, "the Monitoring Officer" shall be the ~~Deputy Chief Executive~~Director of Legal Services.

## Extract from Officers' Code of Conduct

## APPENDIX G

### Politically Restricted Posts (PoRPs) (Revised May 2012)

#### Legal Background

The Local Government and Housing Act 1989 (LGHA) introduced the principle of Politically Restricted Posts (PoRPs) in local authorities. This Act had the effect of restricting the political activities of certain local authority employees. The LGHA was amended in 2009 by the Local Democracy, Economic Development and Construction Act 2009.

#### Restricted Posts

Posts may be politically restricted because

- they are specified as PoRPs in accordance with the legislation; or
- it has been determined that they fall within the sensitive duties related criteria of the legislation

#### Specified Posts within Sheffield City Council

**These post holders are politically restricted without the right of appeal**

### **Statutory Officers**

The Head of the Paid Service (Chief Executive)

Director of Children's Services under Children's Act 2004 (Executive Director CYPF)

Director of Adult Services under LASSA 1970 (Executive Director Communities)

Chief Finance Officer under Section 151 of LGA 1972 (Executive Director of Resources)

The Monitoring Officer (~~Deputy Chief Executive~~Director of Legal Services)

### **Non Statutory Chief Officers**

Officers reporting directly to the Head of the Paid service excluding secretarial/clerical support.

### **Deputy Chief Officers**

An officer reporting directly or is directly accountable to one or more of the statutory or non statutory Chief Officers.

### **Officers Exercising Delegated Powers**

Officers whose posts are specified by the authority in a list maintained in accordance with section 100G (2) of the Local Government Act 1972.

### **Assistants for Political Groups**

### **Sensitive Duties Posts within Sheffield City Council**

The duties of a post under a local authority fall within this subsection if they consist of or involve one or both of the following sensitive duties i.e.

- giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive; or to any member of that executive who is also a member of the authority
- speaking on behalf of the authority on a regular basis to journalists or broadcasters

These post holders can appeal against political restriction on the grounds that the criteria have been wrongly applied.

Teachers and Headteachers are exempt from political restriction, whatever their role.

A list of all Politically Restricted Posts within Sheffield City Council is held by the relevant Proper Officer (Chief Executive). Any modifications to this list must be reported and recorded accordingly.

### **Restrictions on Post Holders**

Employees in PoRPs are debarred from standing for or holding elected office as

- Local councillors
- MPs
- MEPs
- Members of the Welsh Assembly
- Members of the Scottish Parliament

These restrictions are incorporated as a term in the employee's contract of employment under Section 3 of the Local Government (Politically Restricted Posts) Regulations 1990.

They are also restricted from

- Canvassing on behalf of a political party or a person who is or seeks to be a candidate
- Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party

### **Appeals against inclusion on the list of politically restricted posts**

Post holders who are politically restricted because they hold specified posts have no right of appeal.

- Appeals are made to the Head of Paid Service
- Post holders of sensitive posts that are politically restricted may appeal on the grounds that the authority has wrongly applied the duties-related criteria
- Appeals may be made by the current post holder or by an individual who has been offered employment in a politically restricted post
- There is no timescale during which a post holder must make an appeal
- To appeal, employees should send a letter formally seeking exemption and a job description to the Monitoring Officer (~~Deputy Chief Executive~~Director of Legal Services), Town Hall, Pinstone Street, Sheffield, S1 2HH



- If the appeal is successful, the Monitoring Officer will notify HR Connect at Capita, so that it may be noted on the records for the individual and for the post

Please Note: This document is a summary, if you require further details or are unsure about any of the content please contact the Director of HR, Town Hall, Pinstone Street, Sheffield S1 2HH.

---

## **Extract from the Protocol For Member / Officer Relations**

### **Key Officer Roles**

**Statutory Posts** Certain Senior Officers hold posts with mandatory statutory responsibilities including the Chief Executive, the Monitoring Officer (~~Deputy Chief Executive~~Director of Legal Services), appointed under Section 5 of the Local Government and Housing Act 1989 and the Chief Finance Officer (Director of Corporate Resources) appointed under Section 151 Local Government Act 1972. Members must respect these responsibilities and accept that these Officers may be required to give advice or make decisions which Members may not agree with or support.

## SHEFFIELD CITY COUNCIL

**WHISTLEBLOWING****SEE IT – SAY IT****SECTION 1 – INTRODUCTION AND POLICY****1.1****INTRODUCTION**

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to staff, the public or the environment, it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

Sheffield City Council has introduced this policy to enable you to raise your concerns about such issues at an early stage and in the right way. We believe that enabling our employees to raise concerns safely is an important part of corporate health and we want to promote this. We would prefer you to raise the matter when it is just a concern rather than wait for proof provided you believe the concern is true and we encourage you to do so through this procedure.

The Council's Code of Conduct for employees requires that you report genuine concerns of fraud, theft or unethical behaviour etc. This policy provides you with ways of doing that.

If something is troubling you which you think we should know about or look into, please use this policy. If, however, you are aggrieved about your personal position, please use the Grievance Procedure - which you can view on the Council's Intranet site or get from your manager or the Human Resources Team. [If you are complaining that you have suffered harassment, discrimination, victimisation or bullying at work please use the Dignity and Respect Procedure which is on the intranet. If, however, your concern is about the dignity and respect of others then it may be appropriate to use this procedure.](#) This Whistleblowing Policy is primarily for concerns where the interests of others or of the organisation itself are at risk.

This policy applies to employees of Sheffield City Council including those on permanent, temporary or fixed terms contracts and casual workers. School based employees are not within the scope of this policy but have a separate policy agreed by the Governing Body.

It does not apply to members of the public who should raise their concerns through the Council's complaints procedure either online at: [Customer Feedback - Online Form](#) by telephone on 2735000 or by email at: [complaint@sheffield.gov.uk](mailto:complaint@sheffield.gov.uk)

**1.2****THE COUNCIL'S ASSURANCES TO YOU**Your safety

The Council is fully committed to this policy. It will be followed by managers at all levels. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

Confidentiality

The processes of investigating any complaints or issues raised must comply with natural justice and that will often lead to disclosure of the source of the information. We will not tolerate the harassment, bullying or victimisation of anyone raising a genuine concern, however, we recognise that you may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping it confidential, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court) we will discuss with you whether and how we can proceed.

Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter, protect your position or give you feedback. While we will consider anonymous reports, this policy is not well suited to concerns raised anonymously.

Information and support

The Council has a number of Contact Advisors who can provide advice and information to help you explore the appropriate routes to raise your concern. The Contact Advisors can also provide support as the investigation progresses.

If you are a member of a recognised Trade Union your Trade Union can also support you.

Your right to support in meetings

You have the right to be accompanied by your Trade Union Representative or a work colleague who is not involved and would not be called as a witness, in any meetings, which have a connection to your whistleblowing concern.:-

The meetings you may be required to attend are: ~~This could be~~

- Meeting a manager or Whistleblowing Contact or Co-ordinator to raise the concern
- Meeting an investigation officer in connection with the concern
- Taking part as a witness in any action taken as a result of raising the concern.

**1.3****HOW TO RAISE A CONCERN IN THE COUNCIL**

We hope you will feel able to raise your concern with your manager or another manager in your service area, but we know that this will not always be the case and may not be

appropriate. For this reason we have provided a number of different ways to raise your whistleblowing concern and these are described in Section 2.

This section will tell you about

- How to raise a concern
- Who will receive and handle the information on behalf of the Council
- Your right to be represented or supported in any meetings

#### **1.4 HOW WE WILL HANDLE THE MATTER**

Once you have told us of your concern, we will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation e.g. by the Police or by an external regulatory body.

We will tell you who is handling the matter, how you can contact them and whether further assistance may be needed from you.

If your concern falls more properly within the Grievance Procedure [or the Dignity and Respect Procedure](#) we will tell you.

When you raise the concern you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, you must tell us at the outset.

**In Sections 2 and 3** we have set out what you can expect from us when we handle and respond to your concern.

#### **1.5 IF YOU ARE THE SUBJECT OF A COMPLAINT UNDER THIS POLICY**

If you are the subject of a complaint under this policy and procedure you have the right to be accompanied by your Trade Union Representative or a work colleague at any meetings relating to the complaint but this should not be your line manager as they may be required to implement any recommendations that come out of the investigation.

The Council's Contact Advisors can provide support and guidance about the whistleblowing procedure and investigations to both parties. You can access that support if you have whistleblowing allegations raised against you.

If you are the subject of a complaint or investigation under this policy your confidentiality will be respected as with any other procedure.

#### **1.5 INDEPENDENT ADVICE**

If you are unsure whether to use this policy or you want independent advice at any stage,

you may contact:

- [A Whistleblowing Contact – contact details are provide in Appendix C or on the intranet](#)
- Your union – contact details are provided in Appendix C or are available on the Council’s Intranet service
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

## 1.6

### EXTERNAL CONTACTS

We hope this policy gives you the reassurance you need to raise such matters internally, but if you feel unable to raise the concern internally we would prefer you to raise the matter with the appropriate agency than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact

- Your local Council member (if you live in the area of the Council)
- External Audit (Audit Commission)
- Relevant professional bodies or regulatory organisations
- Your Solicitor
- The Police
- Other bodies prescribed under the Public Interest Disclosure Act, eg
  - Information Commissioner’s Office
  - Serious Fraud Office
  - Environment Agency
  - Health and Safety Executive

If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information, or that disclosure would be privileged. You should, therefore, first check with Legal Services, who will give you confidential advice; you do not have to give your name if you do not wish to. You will find a contact telephone number in Appendix C.

## 1.7

### IF YOU ARE DISSATISFIED

If you are unhappy with our response, remember you can use the other routes detailed in this Policy at paragraph 1.6.

While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

[If you are unhappy with the way you are treated when raising your concern or during the investigation, you can raise this under the Grievance Procedure or under the Dignity and Respect procedure as appropriate but you should not use these alternative procedures to raise the same issues that you raised in your original whistleblowing complaint.](#)

## SECTION 2 – RAISING A WHISTLEBLOWING CONCERN

### 2.1 WHAT TYPES OF CONCERNS CAN BE RAISED

You can use the Whistleblowing Policy to raise concerns about something, involving employees ~~or Members of the Council~~, which is happening at work that you believe to be

- Unlawful conduct
- Financial malpractice
- Causing a danger to staff, the public or the environment
- Contradicting the Council's Code of Conduct
- Deliberate concealment of any of the above.

We have provided some examples of the kind of issues the Council would consider as malpractice or wrong-doing that could be raised under this Policy at **Appendix B**, however, this should not be considered to be a full list.

If you are in doubt – raise it!

### 2.2 WHO WILL RECEIVE AND HANDLE THE INFORMATION

The council has trained and prepared members of staff to handle whistleblowing concerns. Some staff will act as **Whistleblowing Contact Officers** and will be a first point of contact for you, as an alternative to speaking to your manager. We have also named **Whistleblowing Co-ordinators**, who will be responsible for considering or investigating the matter and letting you know what is happening.

We have tried to make roles and responsibilities as clear as possible so that you can be confident that your concerns will be addressed properly. These are set out in **Appendix A** to this policy.

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. The Monitoring Officer will report outcomes, as necessary to the Standards Committee Council, in a form that will maintain your confidentiality as far as possible. ~~The Monitoring Officer is the Deputy Chief Executive. The Monitoring Officer may delegate this responsibility to the Deputy Monitoring Officer.~~ Contact details are provided at the end of this document.

### 2.3 HOW TO RAISE A CONCERN

There are a number of different ways to raise a whistleblowing concern. You can choose the one that suits you. It doesn't matter which, you can be assured that a named manager will properly consider it. However you decide to raise the concern, please ensure that you state that you are doing so under the Whistleblowing Policy.

If at any stage we feel that your concern is a grievance or a complaint about dignity and respect, rather than a whistleblowing matter, we will tell you.

You or your trade union representative on your behalf can:

**a) Raise it with your supervisor, manager or a more senior manager in your service.**

If you have a concern, which you believe is covered by the Whistleblowing Policy, we hope you will feel able to raise it first with your supervisor or manager.

If you feel unable to raise the matter with your line manager, for whatever reason (for example, they may be involved in the issue that you are concerned about), you could raise it with a more senior manager in your service or you can use one of the alternative options below.

You can do this verbally or in writing, by letter or email.

Make sure you ask for your concern to be considered under the Whistleblowing Policy.

Please say if you want to raise the matter in confidence so that arrangements can be made to speak to you in private.

**b) Raise it with a Whistleblowing Contact Officer**

You can use any of the contact numbers listed to raise your concern in confidence. You will speak to a member of Council staff who is trained and prepared to take your call and who will pass it onto the most appropriate Whistleblowing Co-ordinator for consideration or investigation.

**c) Raise it directly with a Whistleblowing Co-ordinator ~~or Council Monitoring Officer.~~**

If you feel the matter is so serious that you cannot discuss it with your manager or a Whistleblowing Contact Officer, you can raise your concern directly with a Whistleblowing Co-ordinator or the Councils Monitoring Officer who will allocate it to an appropriate Whistleblowing Co-ordinator.

~~Concerns can be raised verbally, by arranging a meeting with the appropriate officer, or in writing by letter or email.~~

**d) Raise it with the Council's Monitoring Officer.**

If you feel the matter is so serious that you cannot discuss it with any of the officers set out above you can raise it with the Councils Monitoring Officer who will allocate it to an appropriate Whistleblowing Co-ordinator.

Concerns can be raised verbally, by arranging a meeting with the appropriate officer, or in writing by letter or email.

**ed) Using email**

There is no reason why you cannot use email to raise a whistleblowing concern. However, if you choose to use email, please take extra care to make sure that your message is sent to the correct person and consider that, due to the nature of email it may be read by other people. Putting your concerns into an email is the same as writing a letter. To help make sure your concerns are seen and handled quickly, mark the subject box:

*Whistleblowing – confidential – recipient only.*

### **fe) Raising concerns anonymously**

If you choose not to tell us who you are, it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. While we will consider anonymous reports, our policy and procedure are not well suited to concerns raised in this way. Please take time to read the policy which sets out our assurances to you if you raise a concern under this procedure.

### **Your right to support in meetings**

If you are asked to attend a meeting in connection with the concern you have raised you may be accompanied in the meeting by your Trade Union Representative or a work colleague (who is not involved and would not be called as a witness), in any meetings, which have a connection to your whistleblowing concern.

## **SECTION 3 – THE PROCEDURE**

### **STAGE 1 - VERIFICATION**

Concerns raised under this procedure may be resolved by the person that you raise them with. This could be your supervisor, manager or a more senior manager in your service. If they are not able to resolve the matter or you have raised your concern with a Whistleblowing Contact it will be referred, on the day that it is received, to the Whistleblowing Co-ordinator most appropriate to the nature of the complaint.

The Whistleblowing Co-ordinator will make initial enquiries to assess whether an investigation is required and, if so, what form it should take. Although you are not expected to prove the truth of any allegation, you will need to demonstrate that there is a sufficient reason for making initial enquiries. This policy provides protection to employees who raise issues in the genuine belief that there is serious cause for concern. If the complaint is found to be in bad faith disciplinary action may be considered.

If it is confirmed that the Whistleblowing Procedure is the appropriate route and an investigation is required, the concern will be recorded, an Investigating Officer will be identified and an investigation commissioned by the Whistleblowing Co-ordinator in consultation with the appropriate service manager or Director. Where managers or Directors within the service may be the subject of the allegations then the Whistleblowing Co-ordinator will consult with a more senior manager within the service or, where appropriate, with a manager from another service or Portfolio. The Whistleblowing Co-ordinator will tell you who will investigate and the likely timescale for the investigation.

If there is insufficient information to make a decision about the most appropriate investigation route the Whistleblowing Co-ordinator will ask you for more information. To ensure that your concern is dealt with efficiently and appropriately it is important that the right process is followed.

If the Whistleblowing Co-ordinator considers that the concern falls within the scope of another procedure, such as the Grievance Procedure or Dignity and Respect, they will tell



you and advise that it is referred to the relevant manager for appropriate action. This does not mean that your concern is not taken seriously but that it can be addressed more effectively using another procedure. You will be informed which procedure will be used to address the concerns you have raised.

If it is decided not to investigate further you will be told what enquiries have been made and the reasons for the decision.

The verification of your complaint should take place within 10 working days of you raising it.

When any meeting is arranged to discuss your concerns, you have the right to be accompanied by a Trade Union Representative or other person employed by the Council who is not involved in the area of work to which the concern relates and who also could not be called as a witness.

## STAGE 2 – THE INVESTIGATION

In consultation with the appropriate service manager or Director, the Whistleblowing Co-ordinator will identify an investigating officer or team. Where managers or Directors within the service may be the subject of the allegations then the Whistleblowing Co-ordinator will consult with a more senior manager within the service or, where appropriate, with a manager from another service or Portfolio, the Monitoring Officer or the Chief Executive.

The investigating officer or team will be supported by a HR Advisor.

The Whistleblowing Co-ordinator and the service manager or Director will jointly commission the investigation.

The Investigating Officer ~~will~~ may ask you to put your concerns in writing and provide as much evidence as possible. It may also be necessary to ask you to provide a witness statement. You will have the opportunity to confirm that it is accurate and complete.

You will be asked to agree that the information you have provided and your name may be disclosed so that we can decide how the Council will respond and investigate the issue.

If you do not want to disclose your identity the Whistleblowing Co-ordinator will decide how to proceed in consultation with the Monitoring Officer.

The Investigating Officer may need to contact you or other witnesses during the investigation.

The investigation will be carried out as quickly as possible but the time taken will depend on the nature of the matters raised and the availability and clarity of the information required however we aim to conclude whistleblowing investigations within 12 weeks wherever possible. You will be informed if this is not achievable and you will also be advised when the investigation is concluded. ~~updated at 28 day intervals unless this is not practicable.~~

If you are required to take part in the investigation you have the right to be accompanied by a Trade Union Representative or other person employed by the Council who is not involved in the area of work to which the concern relates and who also could not be called as a witness.

**STAGE 3 – THE OUTCOME**

The investigation will be concluded with a written report of enquiries made, the findings on the strength of the evidence and whether the substance of the allegations has been established. If the investigation concludes that the allegations are not substantiated the report will conclude whether the concerns were raised in good faith.

The report will be presented to and considered by the Whistleblowing Co-ordinator and the commissioning manager or Director. The commissioning manager or Director will be responsible for implementing agreed recommendations with the support of the Whistleblowing Co-ordinator or HR where appropriate. A clear and reasonable timescale should be set for implementing the recommendations which shouldn't exceed three months.

The report will include appropriate recommendations and will be presented, in the first instance, to the commissioning Whistleblowing Co-ordinator. They will be responsible for ensuring it is presented to the appropriate officers, internal and external bodies.

Where legal and confidentiality constraints allow, you will receive information about the outcome of any investigation. As this procedure is aimed at raising concerns where the interests of others or the organisation may be at risk, the person raising the complaint will not normally receive the report. Where legal and confidentiality constraints allow, you will receive information about the outcome of any investigation. This may include findings and recommendations.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure and will provide support.

**Monitoring**

A central record of all whistleblowing complaints, including dates, substantive issues, findings and outcomes is retained by Human Resources. This is provided on a ~~quarterly~~regular basis to the Monitoring Officer who provides reports as necessary to the ~~Standards Committee~~Council. The Monitoring Officer will be updated on a regular basis where cases are investigated.

Revised October 2012

## Appendix A

## ROLES AND RESPONSIBILITIES

### Monitoring Officer

The Monitoring Officer has a statutory duty to consider issues, which have or may result in the Council being in contravention of the law or a Code of Practice. For this reason the Monitoring Officer has overall responsibility for the maintenance and operation of this policy.

The Monitoring Officer will receive an updated log of whistleblowing complaints on a ~~quarterly~~monthly basis including details of complaints received, action taken and analysis ~~of~~of trends. The Monitoring Officer will provide information relating to whistleblowing issues and trends to the Council as appropriate.

### ~~Whistleblowing Contacts~~Contact Advisors

The ~~Whistleblowing Contacts~~Contact Advisors are trained volunteers drawn from across the Council and from each Portfolio. Their contact details are published in the Whistleblowing Policy and on the Intranet.

The ~~Whistleblowing Contacts~~Contact Advisors are responsible for

- Receiving the initial contact from the individual raising their concern
- Providing support and guidance on the policy and procedure
- Referring the complaint to the appropriate Whistleblowing Co-ordinator
- Completing reporting requirements

The ~~Whistleblowing Contacts~~Contact Advisors are trained to handle situations and individuals sensitively, fairly and promptly and to maintain confidentiality wherever possible.

### Whistleblowing Co-ordinators

The Whistleblowing Co-ordinators are named officers from the following services

- Human Resources e.g. for employment matters
- Legal e.g. for issues relating to unlawful practice
- Governance e.g. for concerns relating to decision making
- Audit e.g. for concerns relating to financial irregularity, fraud, corruption, theft
- Finance e.g. for matters relating to financial irregularity, financial mismanagement
- Health and Safety e.g. for issue about unsafe or dangerous practices
- Safeguarding e.g. for matters involving service to children and vulnerable adults
- Commercial Services.

Their role is to

- Receive complaints relating to their specific professional area referred by the ~~Whistleblowing Contacts~~Contact Advisors or directly from individual employees
- Make initial enquires and assess whether an investigation is required and, if so, what form it should take
- If appropriate, commission the investigation, receive and consider findings in consultation with the commissioning manager or Director

- Where the concerns or allegations fall within the scope of specific procedures (e.g. disciplinary procedure) refer them to the relevant manager for consideration under those procedures except where this may result in investigation by a person who may potentially be implicated
- Communicate with the individual who initially raised the concern to inform them of the process to be followed, progress and the outcome
- Complete reporting requirements

### Human Resources

The Human Resources Team are responsible for:

- Development and maintenance of the policy
- Communicating and publicising the policy
- Maintaining the list of ~~Whistleblowing Contacts~~Contact Advisors and Coordinators and ensuring that appropriate briefing and training is provided
- Provide advice to managers on the appropriate procedure for concerns raised initially under this procedure
- Supporting investigations

### Human Resources Business Support Team

The Human Resources Business Support Team will:

- Maintain a central log of whistleblowing complaints, actions and outcomes
- Provide the updated log to the Monitoring Officer on a monthly basis including details of complaints received, action taken and analysis of trends

### Corporate Risk Management Group

The Corporate Risk Management Group will receive quarterly reports on whistleblowing issues including analysis of trends.

### Audit Committee

The Audit Committee will receive ~~quarterly~~ reports on ~~whistleblowing finance or fraud related issues raised through the whistleblowing procedure including analysis of trends that emerge through this and other arrangements including the grievance procedure.~~

The Audit Committee will also consider the operation of the policy in its annual review of governance arrangements in terms of accessibility and robustness.

### Standards Committee

The Standards Committee role is to check within ethical governance frameworks (which are reviewed annually) that the policy exists and is implemented and to be informed about implications for conduct and ethics within the Council.

## **EXAMPLES OF CONCERNS WHICH MAY BE RAISED**

This list shows the kind of issues that may be raised under the Whistleblowing Policy. However, there may be other concerns that can be raised under the policy that are not shown here. A Whistleblowing Contact will be able to advise you if you are not certain whether this is the appropriate process.

- Poor or unprofessional practice by a member of staff or an agency which results in the service user not getting the same quality of service which is available to others
- Improper/unacceptable behaviour towards a service user which could take the form of emotional, sexual or verbal abuse, rough handling, oppressive or discriminatory behaviour or exploitative acts for material or sexual gain
- Any unlawful activities, whether criminal or a breach of civil law
- Fraud, theft or corruption
- Concerns regarding possible breaches of Health and Safety Regulations
- Harassment, discrimination, victimisation or bullying of employees and/or service users
- Leaking confidential information in respect of Council activities or records
- Doing undisclosed private work which may conflict with working for the Council, or which are being carried out during working time
- Inappropriate contact with members of the public within Council facilities, or whilst carrying out Council duties or outside of working time
- Taking gifts or inducements
- Inappropriate use of external funding
- Maladministration as defined by the Local Government Ombudsman
- Breach of any statutory Code of Practice
- Breach of, or failure, to implement, or comply with any Council policy
- Misuse of Council assets, including computer hardware and software, buildings, stores, vehicles

**WHISTLEBLOWING CONTACT OFFICERS**

If you are unable to report a genuine concern by any of the means explained in the policy, you may choose to telephone one of your Directors' numbers as listed below. Outside normal office hours, a voicemail or answer machine facility will be in operation. Please remember that you must leave your name and telephone number at which you can be contacted.

**Deputy Chief Executive Team**

Alistair Griggs	Director of Modern Governance	34019
Joe Fowler	Director of Communications and Performance	34019
James Henderson	Director of Policy and Research	53126
Edward Highfield	Director of Economy, Enterprise & Skills	53126
Chris Shaw	Director of Health Improvement	53126
Lynne Bird	Director of Legal Services	34018

**Resources Leadership Team**

Eugene Walker	Director of Finance	35872
Julie Toner	Director of Human Resources	34081
Cheryl Blackett	Head of Human Resources, Policy & Governance	34080
Sue Palfreyman	Head of Human Resources, Service Delivery	35530
Sue Kelsey	Interim Head of Schools HR Service	2930880
Nalin Seneviratne	Director of Property & Facilities Management	34120
Paul Green	Director of Information Services	36818
Barry Mellor	Commercial Director	2053819
Julie Bullen	Director of Customer Services	36967
Kevin Foster	Director of Transformation Programme	2053478
Neil Dawson	Head of Transport Services	2037595

**Children, Young People and Families**

Jayne Ludlam	Deputy Executive Director of Children & Families	2930063
John Doyle	Director of Business Strategy	35663
Maggie Williams	Children's Commissioner	2930968
Tony Tweedy	Director of Lifelong Learning, Skills & Communities	2296140

**Place**

John Charlton	Deputy Executive Director/Director of Streetforce	36552
Paul Billington	Director of Culture and Environment	35071
Les Sturch	Director of Development Services	35909
Mick Crofts	Director of Business Strategy	36148
Sue Millington	Senior Strategy Manager	35128
Andy Nolan	Director of Sustainable Development	36135

Communities		
-------------	--	--

Eddie Sherwood	Director of Care and Support Communities	34840
Miranda Plowden	Director of Commissioning	35057
Jan Fitzgerald	Interim Director of Community Services	34486
Bev Coukham	Director of Business Strategy	35094

## WHISTLEBLOWING CO-ORDINATORS

### Human Resources

Cheryl Blackett	Head of Human Resources, Policy and Governance	34080
Sue Palfreyman	Head of Human Resources, Service Delivery	35530
Sue Kelsey	Interim Head of Schools HR Service	2930880

### Legal

Lynne Bird	Director of Legal Services	34019
------------	----------------------------	-------

### Governance

Alistair Griggs	Director of Modern Governance	36629
-----------------	-------------------------------	-------

### Audit

Steve Gill	Chief Internal Auditor	34363
------------	------------------------	-------

### Finance

Eugene Walker	Director of Finance	35872
---------------	---------------------	-------

### Health and Safety

Steve Clark	OD Manager, Safety and Employee Well-being	34796
-------------	--	-------

### Safeguarding

Cath Erine	Service Manager	36870
Karen Bennett	Service Manager	2053846
Des Charles	Service Manager	35819

## TRADE UNION REPRESENTATIVES

Jon Mordecai	UNISON	2736307
Mark Keeling	UNITE	2736486
Shelagh Carter	GMB	2768017

(Contact Officers/Co-ordinators/Trade Union Representatives last updated June 2011)

## **Article 9 - The Standards Committee and Health and Wellbeing Board**

### **9.01 Standards Committee**

The Council (in this Article 'the City Council') will establish a Standards Committee to determine complaints under the Code of Members' Conduct referred to it by the Monitoring Officer and promote high standards of Councillor conduct.

### **9.02 Composition**

#### **(a) Committee Membership.**

The Standards Committee will comprise not more than eight Members of the City Council with proportionality disapplied (5 Labour and 3 Liberal Democrat members, with one Member from each Party to be present at each meeting) and, on an interim basis until guidance is issued by the Government, the membership will also include up to 5 non-voting co-opted members (the 4 existing Independent Members of the Standards Committee and 1 representative of the three Parish/Town Councils);

#### **(b) Chair and Deputy Chair.**

The Chair and Deputy Chair of the Committee and of its Sub-Committees shall be appointed by the Committee or Sub-Committee; and

#### **(c) Quorum.**

The quorum for meetings of the Committee and any of its Sub-Committees shall be three and must include representatives of two political parties

### **9.03 Role and Functions**

The Standards Committee and its Sub-Committees will have the terms of reference set out in Part 3 of this Constitution. The Committee will exercise the following role and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, Co opted Members;
- (b) advising the Council on the adoption or revision of the Councillors' Code of Conduct and Protocols relating to Councillor and Officer behaviour;



- (c) discharging, the functions of hearing complaints against Councillors concerning the Councillors' Code of Conduct referred by the Monitoring Officer;
- (d) the exercise of the above functions in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils.

#### 9.04 Health and Wellbeing Board

Established in accordance with and to discharge the statutory functions under Health and Social Care Act 2012.

#### 9.05 Membership

· Four Elected Members:

- o The Leader of the Council
- o The Cabinet Member responsible for Adult Social Care & Public Health
- o The Cabinet Member responsible for Children & Young People
- o The Cabinet Member for Homes and Regeneration
- Four Clinical Commissioning Group (CCG) clinical representatives
- A representative from Sheffield Healthwatch
- Chief Executive, City Council
- Chief Operating Officer, CCG
- Director of Public Health
- Executive Director, Children, Young People & Families
- Executive Director, Communities
- A representative of the NHS Commissioning Board (who will contribute to the JSNA and the JHWS and to discussions related to services commissioned by the NHS Commissioning Board)

9.06 The Health and Wellbeing Board may appoint additional persons.

#### 9.07 Powers and Responsibilities

- Promote the integration of Health, Social Care and Public Health
- Promote Joint Commissioning
- Duty to provide an opinion as to whether LCG Commissioning Plan has taken into account Joint Health and Wellbeing Strategy (JHWS)
- Joint duty to prepare and publish Joint Strategic Needs Assessment (JSNA) and JHWS and to involve third parties

- [Duty to have record NHS Commissioning Plan and consider flexibilities under the NHS Act 2000](#)
- [Duty to encourage integrated working in Health and Social Care under the NHS Act 2006](#)

---

### Extract from Article 12 – Officers

#### (c) Statutory Officers

In addition to the Head of the Paid Service, the Council will designate officers, as identified in Part 7 of this Constitution, to the following posts:

Monitoring Officer, under the Local Government and Housing Act 1989

Chief Finance Officer, under Section 151 of the Local Government Act 1972

Director of Children’s Services, under the Children Act 2004

Director of Adult Social Services under the Local Authority Social Services Act 1970

(The Director of Adult Services and Director of Children's Services will be the relevant Executive Director with responsibility for Adults and Children respectively).

[Director of Public Health under Section 73A National Health Service Act 2006 \(local authorities and the NHS\)](#)

---

### Extract from Part 7 – Management structure and Proper Officers

#### 2. PROPER OFFICERS

2.1 The following are the Proper officers of the Council for the purposes stated:-

The Local Authorities (Standing Orders) (England) Regulations 2000	Description	Proper Officer
<a href="#"><u>Health and Social Care</u></a>	<a href="#"><u>Description</u></a>	<a href="#"><u>Proper Officer</u></a>

<u>Act 2012</u>		
<u>Section 30 to 37</u>	<u>Officer to carry out the role of Director of Public Health.</u>	<u>Director of Public Health</u>

**EXTRACT FROM COUNCIL PROCEDURE RULES**

**5 Meetings of the Council and Other Bodies**

5.1 The annual meeting of the Council shall be held in the Town Hall at 11.30 a.m. on the third Wednesday in May.

5.2 The annual meeting will:

- (m) appoint at least one Overview and Scrutiny and Policy Development Committee, ~~a Standards Committee~~ and such other Committees as the Council considers appropriate to deal with matters which are not reserved to Full Council nor are Executive functions (as set out in Part 3 of this Constitution);

## Article 11 – Joint Arrangements

### 11.01 ~~Arrangements to Promote Well-being~~ General Power of Competence

The Council or the Executive, ~~in order to promote the economic, social or environmental well-being of its area,~~ may, subject to restrictions and limitations, exercise its general power of competence (section 1, Localism Act 2011) to:-

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.02 **Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities (including non-principal authorities) to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of Joint Committees with these other local authorities. The appointment of individuals to Joint Committees which exercise non-executive functions is a function of the Full Council.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities. The appointment of individuals to such Joint Committees exercising executive functions is itself an executive function and, unless provided otherwise in any particular case by the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, only members of the Executive may be appointed to such Joint Committees.
- (c) The Council may, with the agreement of the Executive, establish joint arrangements with one or more local authorities to exercise functions some but not all of which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities. Appointments of individuals to a Joint Committee exercising both executive and non-executive functions will be made by Full Council with the agreement of the Executive.
- (d) The Council nominates representatives to the South Yorkshire Joint Authorities and to the South Yorkshire Police and Crime Panel.

- (e) The Council and the Executive must maintain a list and details of the joint arrangements they have established.

### 11.03 Procedure for Joint Committees

The Access to Information Procedure Rules in Part 4 of this Constitution apply to Joint Committees.

If all the members of a Joint Committee are Executive Members in each of the participating authorities then its Access to Information regime is the same as that applied to the Executive.

If the Joint Committee contains Members who are not Executive Members of any participating authority then the Access to Information regime in Part VA Local Government Act 1972 will apply.

### 11.04 Delegation to and from other Local Authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) Arrangements can only be made for a non-executive function to be carried out by the Executive of another local authority if that function is the responsibility of that other authority's Executive.
- (c) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (d) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Full Council in respect of non-executive functions and to the Leader in respect of executive functions.

### 11.05 Contracting Out

The Council (for functions which are not executive functions) and the Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

**EXTRACT FROM COUNCIL PROCEDURE RULES****(B) MISCELLANEOUS MATTERS****B6 Appeals against Dismissal or Disciplinary Action**

Appeals against dismissal or disciplinary action shall be to a Panel of the Council which shall comprise two Members of the majority group and one from a minority group who have been accredited by attending appropriate training sessions ~~and through receipt of the Appeals Panel Handbook.~~ Appeals against dismissal by reason of redundancy shall be to a panel of authorised chief officers.

This page is intentionally left blank